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STATE OF CALIFORNIA
OFF-HIGHWAY MOTOR VEHICLE RECREATION COMMISSION
MEETING MINUTES SYNOPSIS- UNAPPROVED

February 25, 2010

Wyndham Hotel
San Jose Ballroom
1350 North First Street
San Jose, California 95112

IN ATTENDANCE:

OHMVR COMMISSIONERS:

- Gary Willard, Chair
- Mark McMillin, Vice-Chair
- Brad Franklin
- Eric Lueder
- Kane Silverberg
- Paul Slavik
- Stan Van Velsor

CALIFORNIA STATE PARKS OHMVR STAFF:

- Daphne Greene, Deputy Director, OHMVR Division
- Phil Jenkins, Chief, OHMVR Division
- Tim La Franchi, Legal Counsel, OHMVR Division

OTHER OHMVR STAFF AND REGISTERED VISITORS

1 **AGENDA ITEM I. CALL TO ORDER**

2 Chair Willard called the meeting to order at 8:40 a.m.

3 **AGENDA ITEM I(A). PLEDGE OF ALLEGIANCE**

4 Commissioner Franklin led the meeting attendees in the
5 Pledge of Allegiance.

6 **AGENDA ITEM I(B). ROLL CALL**

7 Six Commission Members were present at time of roll
8 call. Commissioner Van Velsor was detained by a road
9 closure due to an accident and arrived at 10:00 a.m.

10 **AGENDA ITEM II. APPROVAL OF AGENDA**

11 CHAIR WILLARD: Ask for a motion to approve the
12 agenda.

13 COMMISSIONER McMILLIN: So moved.

14 COMMISSIONER SILVERBERG: Second.

15 CHAIR WILLARD: Discussion? All in favor?
16 (Commissioners simultaneously voted.)

17 CHAIR WILLARD: Agenda is approved.

18 **AGENDA ITEM III. APPROVAL OF MINUTES**

19 CHAIR WILLARD: Motion to approve the minutes of
20 the November 4th meeting?

21 COMMISSION FRANKLIN: So moved.

22 COMMISSIONER McMILLIN: Second.

23 CHAIR WILLARD: Discussion, questions, comments
24 on the minutes?

25 COMMISSIONER SLAVIK: Let me just say real

1 quickly, the presentation we had on the GPS stuff from
2 the guy from Death Valley, I'm hoping that we're still
3 on top of that. Reading those minutes again, this
4 seems to be the future. In a lot of things we are
5 doing, this seems like something we could really take
6 advantage of.

7 DEPUTY DIR. GREENE: If I may, Chairman Willard.
8 Good morning, Commissioners, members of the public.
9 It's nice to see everybody here. We met with Randy
10 Bannis the week after he attended the Commission
11 meeting. We had good a discussion. We actually had
12 representatives there from Ocotillo Wells who are
13 responsible for the GIS program that we're expanding
14 throughout all of our districts. And so it was a good
15 opportunity for both of our worlds to come together and
16 look at how we can move forward.

17 I have some clarifying questions on the minutes.
18 This is just a process question. We have the ability
19 to print the minutes on the front and back page, and we
20 also have the ability to do four pages to a page. I
21 don't know if any of you have any preference. Let
22 Vicki know if you prefer one, two, or four to a page,
23 so we can modify your binder accordingly.

24 COMMISSIONER McMILLIN: I have a question about
25 the workshops that we held after the last meeting.

1 Have we seen the minutes or notes on those?

2 DEPUTY DIR. GREENE: We have those internally,
3 so we have not yet provided them to you. We are
4 looking at trying to do that as a package as we move
5 forward with rolling out the education component for
6 our strategic plan.

7 COMMISSIONER McMILLIN: We will receive those
8 not as minutes?

9 DEPUTY DIR. GREENE: Cheryl wasn't there
10 capturing them in that same manner. We had note takers
11 at the table, so we do have those in that form.

12 Also, just a question as well for the Commission
13 perhaps to consider, but not to make a decision today.
14 In speaking with Cheryl, we may look at condensing the
15 minutes. We would shorten them up in such a way as to
16 condense them. How would the Commissioners feel about
17 that?

18 CHAIR WILLARD: Let's take that up I think at
19 the next meeting. We're probably going to be covering
20 our policies and procedures, that would be a good place
21 to talk about the minutes, as well.

22 Call for the vote. All those in favor of
23 approving the minutes?

24 (Commissioners simultaneously voted.)

25 CHAIR WILLARD: So moved.

1 If you could, please, there are forms on the
2 back table that need to be filled out if you'd like to
3 speak. We'll be taking public comments during various
4 items, and then at 11 o'clock we'll break for just
5 comments on anything.

6 So you need to write out what comment, what
7 specific issue or business item you want to address,
8 and then fill out the appropriate form, or if you just
9 have a general comment, that would come under the 11
10 o'clock public comment period. And you can drop them
11 off over here with Vicki at the desk.

12 **AGENDA ITEM IV(A). COMMISSION REPORTS**

13 CHAIR WILLARD: Commissioner Franklin, can you
14 give us an update on the CPSIA issue?

15 COMMISSIONER FRANKLIN: Certainly. There has
16 been some movement with the CPSC and the improvement
17 act. The CPSC Commission submitted a report to
18 Congress on January 15, 2010. Their report recommended
19 that Congress grant them more flexibility in the
20 application of the improvement act, specifically
21 they're asking for the ability to exclude certain
22 products from the requirement. So that request from
23 the CPSC went to Congress on the 15th of January, and
24 Congress has yet to take action on it.

25 Along with their request, we still have two good

1 bills submitted, one in the House, one in the Senate,
2 aimed to give a specific exclusion to certain products
3 from the improvement act. So whichever way we get
4 movement, whether it's the CPSC request for flexibility
5 or an actual resolution through the House and Senate,
6 we should have some action. The problem is right now
7 obviously we have a Congress that is more focused on
8 the economy and healthcare, obviously two big issues
9 there, and they want to tackle those and resolve those
10 or get some movement on those prior to taking up any
11 other actions. So we are kind of in a stall pattern,
12 but my personal opinion is we shall see something prior
13 to the November elections.

14 With that said, I know that industry is
15 supportive of any of those two methods for resolution.
16 Industry and the near enthusiast and enthusiast
17 magazine and press are going to be mounting another
18 grassroots campaign to bring this issue back into
19 priority for members of Congress. That seemed to work
20 when we got the stay pushed through, and they hope to
21 do that again.

22 CHAIR WILLARD: I'd like to give an update on
23 the 2011 Report. As you know, AB 742 mandated that the
24 Commission issue a report to the Legislature and
25 various other political bodies every three years. So

1 the first one is due January 1st, 2011. So
2 Commissioner Slavik and I have been working with
3 Division staff where we've had several drafts of the
4 plan, and it's well underway. And we'll be bringing
5 this up at our next meeting in April. And we should
6 have a draft ready for public review and looking
7 forward to getting public comments on the draft at that
8 time so we can move this important bit of work forward.

9 Any other reports from Commissioners?

10 Deputy Director, would you like to please give
11 us your report?

12 **AGENDA ITEM IV(B) - DEPUTY DIRECTOR'S REPORTS**

13 DEPUTY DIR. GREENE: I know we have a lot of
14 material here today. There's a lot of things that are
15 going on in the state these days with regard to
16 off-highway vehicle recreation.

17 **AGENDA ITEM IV(B)(1)(a) Strategic Plan update**

18 DEPUTY DIR. GREENE: I wanted bring to your
19 attention the long-awaited strategic plan that all of
20 you have one in front of you. I would just like to
21 thank all the staff in the Division, as well as the
22 Commission and members of the public, for your input
23 into this important document. I hope everybody will
24 take the time to look through it. We need to begin to
25 implement it. So as you look in the back at the goal

1 and objectives, our team will be working to begin
2 implementing all of those items that we've identified
3 with everybody's help. It took a while to get through
4 the process, but it's here. So really a special thanks
5 to everybody within the Division who devoted an
6 enormous amount of time to getting this completed.

7 Also, just on a sad note, but on a note which I
8 think all of us, whenever I come to these meetings,
9 will miss him deeply, and that is the passing of
10 Don Klusman right before Christmas. Don had been a
11 member of California 4-Wheel for I think 40 to
12 50 years. There's an award named in his honor. He was
13 a member of our stakeholder process, a dear friend and
14 advocate for bringing people together and communities
15 of interest on behalf of responsible OHV recreation.
16 So just acknowledgement of Don's absence. He will be
17 missed and is missed.

18 **AGENDA ITEM IV(B) (1) (b) El Dorado County /Rubicon Trail**

19 DEPUTY DIR. GREENE: At this point I'll turn to
20 the Chief for an update on El Dorado County and the
21 Rubicon Trail.

22 CHIEF JENKINS: Good morning, Commissioners. In
23 your Board packet, there should be a one-page staff
24 report, which is just a summary of what's going on, and
25 right behind that is a staff report that was actually

1 from El Dorado County that put out some more detailed
2 information if you wanted to refer to that later.

3 Essentially, the need to define a centerline on
4 the Rubicon Trail was brought to the forefront recently
5 in relation with the Central Valley Regional Water
6 Quality Control Board who had issued a cleanup and
7 abatement order to the county to take care of issues on
8 the Rubicon Trail related to water quality.

9 One of the things specifically that was called
10 out in that cleanup and abatement order was that they
11 needed to define the central line of the trail or
12 define what was the trail. This was so that if they're
13 going in to evaluate if the trail is being properly
14 maintained and that there's not excessive damage or
15 erosion, damage to the environment or erosion to the
16 watershed from the trail, how do you tell unless you
17 know what you're all calling the trail.

18 So the El Dorado County Board of Supervisors had
19 a meeting last month on January 26th specifically to
20 address this issue. It was a fairly long meeting. I
21 know that because I was over here actually in San Jose
22 for a meeting and left thinking that by the time I got
23 home somebody would tell me how it went. And I was
24 actually able to make the last half of the meeting,
25 which I think finished late that night, and I know some

1 of us here were there.

2 So the topic was given a very full hearing and
3 debate from a lot of different areas of interest. They
4 were looking at essentially four options of how to
5 handle that trail. One option was to close the trail.
6 Then they had three options about how to define the
7 trail. Basically, they were either going to have a
8 single centerline alignment, in other words, one line
9 on the map that designates where the trail is. So that
10 was their first option, one line that shows the trail.

11 The second option was to have a centerline, you
12 know, this is the trail, and then with a few places
13 have some variant routes, basically bypasses for some
14 of the more difficult sections of trail.

15 The third option was to have centerline with
16 those variants, the bypasses, as well as a couple of
17 corridor areas where they would just broadly define the
18 trail through this corridor on the map, and that way
19 season to season they could move the actual route side
20 by side based on weather or other things.

21 After quite extensive discussion on the item and
22 debate and public input, they chose option number two,
23 which is going to be a single central alignment of the
24 trail with several variant options.

25 There was a little modification to that as well

1 to an area called the Little Sluice, which is one of
2 the most difficult areas of the trail to traverse. If
3 you are not familiar with the trail, the Little Sluice
4 area is an area that has a lot of large boulders on it.
5 Right now there's a couple of bypasses to get around
6 that particular spot, but vehicles go into the Little
7 Sluice, some of them become damaged and sometimes that
8 can result in fuel spills, oil spills.

9 What the county indicated its intention was in
10 that area was to go into the Little Sluice and reduce
11 the size of many of those boulders so that vehicles can
12 more readily pass through there, and hopefully it will
13 obviate some of the problems that have been caused by
14 the damage to vehicles currently occurring on occasion.
15 So that's the final decision there was variant two with
16 the bypasses, with the reduction of boulders on the
17 Little Sluice.

18 What that does now is allows the Department of
19 Transportation through the county to focus their
20 maintenance money. They have a lot of other things to
21 spend money on. They are in the same economic pickle
22 that everybody else is. This allows them to focus
23 their work on defined route. And then the Central
24 Valley Regional Water Quality Control Board knows what
25 they're looking at, so everybody is talking about the

1 same thing when we talk about the Rubicon Trail.

2 So that's it in a nutshell. This is just an
3 information item for you all because it's an item of
4 great interest to quite a few people, as evidenced by
5 the long meeting we had that day.

6 Happy to take any questions, but I think it's a
7 pretty basic issue as far as details.

8 CHAIR WILLARD: Thank you for that, Chief. I
9 just have a question on what's the response from the
10 user community as to the routes that were adopted,
11 specifically some of the bypasses? Are they finding
12 that acceptable? Are there any major issues with any
13 of that?

14 CHIEF JENKINS: As one might expect, defining
15 the response of the community is impossible. Now,
16 there are some people that walked out of the room and
17 said this is a great deal because we finally have
18 clarity. I think by in large there were quite a few
19 people that felt that way. There were some folks that
20 left the room that were surprised about the decision to
21 reduce the boulders on the Little Sluice. So as with
22 any decision, there is no way to please everybody, as
23 we all know. So, yes, there is a fairly vocal element
24 that's unhappy about reducing those boulders, but by in
25 large I think the meeting was able to capture community

1 consensus of how to move forward on this. Right there
2 I'm just relating my impression of the meeting as I say
3 that. I'm sure we'll hear on public comment various
4 views of how that decision is being taken.

5 **AGENDA ITEM IV(B) (1) (c) Carnegie SVRA Overview**

6 DEPUTY DIR. GREENE: As many of you know from
7 the last meeting, we are in litigation at Carnegie
8 SVRA. But before we have an update from Tim LaFranchi,
9 I'm sure all of you remember Ellen Clark, who is our
10 interpreter at the Division, and we thought it would be
11 just a good idea to be able to have a bit of history as
12 we move forward in an explanation to the update from
13 Tim.

14 OHMVR STAFF CLARK: Thank you, Deputy Director
15 Greene. Commissioners, welcome. Well, today I'm going
16 to tell the story of Carnegie in the way of history.
17 This is a super interesting place, and it's pretty
18 amazing. And by looking at this photo, you would never
19 know how many human uses, industrial activity,
20 et cetera, actually went on in this park.

21 (13-minute PowerPoint presentation ensued.)

22 ATTORNEY LA FRANCHI: I'll just provide you with
23 a quick update on litigation. Just to recap, as I
24 think we reported before in early December, the Alameda
25 Superior Court Judge Roach issued an order at the

1 request of the plaintiffs, petitioners in this case,
2 basically ordering the Division to submit a report of
3 waste discharge under the Clean Water Act or the
4 California's Porter-Cologne Act with regard to
5 discharges of sediment into Corral Hollow Creek at
6 Carnegie, and also while that process was pending
7 before the water board regional water board to close
8 down OHV activity at the park until the water board had
9 decided what the appropriate regulatory measures would
10 be to manage the sediment, the discharges at the park.

11 The Attorney General put together quickly an
12 appeal to the appeal court requesting a temporary stay
13 of the judge's order to allow the park to stay open,
14 which the appeal court granted. And so the park
15 remains open today while the appeal court considers the
16 State's appeal of the judge's order.

17 The appeal was filed. I think all of the
18 paperwork by all of the parties, all of the briefings,
19 were filed sometime in late January. As a general
20 rule, appeal courts have somewhere in the neighborhood
21 of 90 days to make their decision. So the decision of
22 the appeal court is pending; they're working on it now.

23 The couple of the bases for which the appeal was
24 filed: One, the court ordered closure, but there are
25 other avenues of solving in the short term and in the

1 long term some of the sediment discharge problems at
2 the park such as cleaning up the slopes, closing riding
3 in the creek and that sort of thing as opposed to
4 closing down the whole park. And those are
5 discretionary actions within the discretion of the
6 department. And the court basically mandated only one
7 way to solve the problem, and there are a number of
8 other ways that the problem could be solved. So the
9 appeal court is considering whether the Superior Court
10 judge went too far with his order to close the park.

11 The second aspect of the appeal fundamentally is
12 that there is a question with regard to whether a
13 private entity such as the Sport Fisherman Alliance and
14 PEER actually as a private citizens group have a
15 private right of action to enforce the Porter/Cologne
16 Water Quality Act, and that's even a more significant
17 legal issue. There is no precedence, been no decisions
18 on that, so the court is grappling at this point with
19 some of those critical legal issues.

20 So I don't think any of us can speculate on what
21 we might hear, but for the moment the court is
22 considering the appeal, and the park remains open until
23 that appeal court decision comes down.

24 **AGENDA ITEM IV(B)(1)(d) Oceano Dunes air quality**

25 DEPUTY DIR. GREENE: We will move on to the

1 San Luis Obispo County, counsel.

2 ATTORNEY LA FRANCHI: This is a new item,
3 although it's not a new item for the Division or the
4 Oceano Dunes State Vehicular Recreation Area. The
5 San Luis Obispo County Air Quality Control District for
6 many years at the SVRA has been monitoring dust
7 emissions in the area. And for over 20 years, they
8 have measured PM 10, PM 2.5, which are fine particles,
9 dust particles that exceed the state health standards
10 for the emissions of particulates in the air in the
11 area that we're talking about, Nipomo Mesa.

12 On the map behind me, I will stand up and orient
13 you to what we're talking about and hopefully I can
14 speak loudly enough because I think it would be easier
15 if I stood up there to explain what the study in
16 summary was all about.

17 The study was finally issued in this month.
18 I've got it here. It's about an inch thick. It's
19 available on the website for the air quality control
20 district. It's an interesting study, and I'll explain
21 that a little bit more in just a moment.

22 DEPUTY DIR. GREENE: Just for clarification
23 purposes, it actually was released this week, and
24 that's the reason it's not in your binder.

25 (Using a map, LaFranchi identified the study

1 area.)

2 COUNSEL LA FRANCHI: Let me give you a little
3 bit of background on the air quality district. It has
4 a responsibility to monitor throughout San Luis Obispo
5 County air quality. So it has established monitoring
6 stations throughout San Luis Obispo County. (Indicated
7 monitoring stations on map.) The winds flow roughly in
8 a northwest direction in this area. They range,
9 according to the study, from, of course, calm days up
10 to sometimes more than 30 miles an hour. What happens
11 is dust is measured in this area that exceeds the state
12 standard for healthy levels of PM 10 and PM 2.5
13 according to the air quality district, and in some
14 cases, on rare days, it will actually exceed the
15 federal standard, which is much higher than the state
16 standard.

17 As a result of what they call the Phase One
18 Study that looked at this, they were unable to
19 determine specifically the sources of those
20 contaminants or those levels of the PM 10. They
21 believe that a significant source was the Oceano Dunes
22 SVRA. So in late 2007, the air quality board requested
23 the district staff to develop a study that would be
24 more focused on determining the sources of the
25 contaminants that were reaching the Nipomo Mesa and to

1 determine the effect, whether there was a significant
2 effect from the Oceano Dunes SVRA on that as opposed to
3 other areas; what the actual sources were.

4 The study that has come out, I've read most of
5 it, was conducted by experts from the University of
6 California at Davis. They brought in experts from the
7 University of Texas. They brought in experts from the
8 Owens Valley area, the air quality district that
9 oversees the Owens Valley, which has over the years,
10 because of a dry lake bed at Owens Valley, a huge
11 PM 10, the largest contribution in the nation. They
12 brought in experts. They brought in scientists from
13 California Air Resources Board. So they had a wide
14 range of experts designing the study. The study set up
15 measuring locations all up and down this area and
16 inland. They measured at -- Grover Beach is here,
17 Oceano. They measured inland from those areas where no
18 riding occurs. They set up measuring stations south of
19 the park, and one at Oso, another one farther south to
20 measure the effect of wind and sand particulates coming
21 off the beach where no riding was allowed. And they
22 also, of course, measured the particulate effect coming
23 across the sheet dunes at Oceano Dunes.

24 The conclusions they've reached are basically
25 two with respect to Oceano Dunes. There are basically

1 three kind of summary conclusions from the report.
2 Number one, when they looked at the measurements in
3 these areas, it took higher wind sheers to contribute
4 to high PM 10 levels. There were some occasions when
5 they were getting high PM 10 measurements, but those
6 took quite a bit higher levels of wind than it took to
7 generate sand movement off of Oceano Dunes. They found
8 that on high riding days, high visitor days, the effect
9 wasn't any greater than on any other days. And they
10 found, though, that it took lower levels of wind to
11 generate PM 10 levels excedence on high wind days
12 across the sheet dunes, and they attribute that in the
13 report to the fact that the riding on the Dunes has
14 done two things. One, it has broken the crust of the
15 dunes. They say that generally a sand dune area, and
16 they have that effect at Owens Lake as well, that a
17 thin half to one centimeter crust builds up where the
18 particles are more or less glued together, and it's
19 harder for the wind to break those particles loose. At
20 Owens Valley they say that during the wintertime during
21 the rains, that crust builds up. As the crust breaks
22 down into the spring and summer, the PM 10 level rises
23 at the Owens Valley.

24 They attribute the breaking down of the crust to
25 the riding on the dunes, and that doesn't occur in

1 these other areas. So they attribute the exceedences
2 during high wind events to the fact that the riding on
3 the dunes has broken down the crust making it easier
4 for the particulates to become airborne.

5 The second thing they attribute this to is the
6 fact that the riding on the dunes also they found that
7 the particulates that come off the dunes, as opposed to
8 the particulates in these other areas where no riding
9 occurs, tend to be much smaller. There is a higher
10 rate of PM 10 small particulates coming off the dunes,
11 and they attribute that to the fact on the dunes to the
12 riding and the tires and the wheels break those sand
13 particles down into finer particles.

14 So that's essentially what the study was about,
15 what it found in a summary conclusion.

16 The next steps will be there's a workshop coming
17 up on March 3rd, which, of course, the Division will
18 attend, folks from Oceano will attend, some us as well
19 probably, to get public input.

20 The next regulatory step for the air quality
21 district will be to determine in a regulatory way what
22 standards, what enforcement action should be taken in
23 their view; will be looking closely at what levels of
24 enforcement are appropriate.

25 The other aspects of that will be what sorts of

1 mitigation measures may be, in the words of the
2 executive director of the air quality district,
3 reasonable and feasible. There seems to be in the
4 press and other viewpoints that it's going to be very
5 difficult to try to close the park, but that it's going
6 to be very critical to figure out what kind of
7 mitigations measures may be available.

8 Some of the kinds of things you look at
9 typically you'll find in construction sites is where
10 you see a lot of the standard mitigation measures
11 applied on temporary construction projects and in
12 agriculture, as well. For example, during high wind
13 seasons or dry seasons, they may limit the amount of
14 plowing that can go on in a field on high wind days.
15 On construction sites, for example, they'll require
16 watering of dust roads to keep the dust down. They may
17 shut down construction operations during high wind
18 days, just a number of measures that are applied. And
19 so that will be the sort of exercise we'll be going
20 through to try to tailor, as appropriate, what kinds of
21 responses might be appropriate.

22 So we're still again in the early stages now
23 that the study is out, looking at understanding it,
24 understanding the effect, how extensive it is, and what
25 kind of things may be appropriate to respond to it.

1 DEPUTY DIR. GREENE: Thank you, counselor.

2 If I may, the Chief has spent much of his career
3 down at Oceano, and I just want to try to get a little
4 bit more understanding of the geography. Also, to just
5 clarify, this study, as he said, has just come out. So
6 I know that when we were initially talking with those
7 who were starting the study, that we had some serious
8 concerns about the methodology of the study. So that
9 is something we're also going to be looking at. You
10 need to look at the study, and you need to make sure
11 that it is, in fact, accurate.

12 CHIEF JENKINS: Thank you. I hope you can all
13 hear me okay. Usually that's not a problem. Right
14 there, that's Cal Poly, and that's where I went to
15 college. Just to understand the geology of the area in
16 a little more depth, so this is the Santa Maria River
17 coming down into the area. You can see clearly, this
18 is a lot of sediment coming down out of river, and this
19 is the normal process for this river. Not that it
20 hasn't been dramatically affected by agricultural and
21 various impacts up the river. But the reason we have
22 so much sand all along this coastline is because all of
23 this sediment transport coming down the Santa Maria
24 River. If you look at the top, you can see a natural
25 line over here and over here. It's even more distinct

1 through here, this big fan. And if you look at over
2 the last thousands of years, this river has swung back
3 and forth across this distance. And so all of this
4 area here is a lot of sand, a lot of deep sand.

5 And when we talk about the mesa that Tim was
6 mentioning, this mesa area behind the park here, that
7 mesa area is also historically a big sand dune
8 essentially. And over eons of geologic time, there has
9 been some uplifting, so it's popped up. If you've ever
10 driven south on Highway 101 after you leave Pismo Beach
11 and you're heading down towards Santa Maria, you're
12 driving right along this line here, you can see there's
13 a big break. From far away it's a little difficult to
14 tell, but there's a big change in this area. There's a
15 big break and then you have a lot of low land pasture
16 area. So as you're driving along that road, to your
17 right as you're heading south, you have a lot of
18 eucalyptus and then you're looking down into this
19 pasture land, you're on the back edge of the old
20 geologic slip face from eons ago of this big massive
21 sheet of sand that's been moving inland for quite some
22 time.

23 We know, for instance, the first Spanish
24 explorers came through here; Gaspar de Portolá came
25 through. They camped right here at Oso Flaco Lake.

1 They were really hungry. They went hunting and shot a
2 bear. It was a little skinny bear, hence the name, Oso
3 Flaco Lake. And as he passed through this area, his
4 logs of this trip document huge sheets of sand that
5 were on the coastline here.

6 The sand moving inland has always impacted these
7 communities to the degree even that in the '20s, I
8 believe it was, right around the turn of the century,
9 in that period, they came through here and planted much
10 of this coastline with European beach grass in an
11 attempt to lock the sand down and stabilize it. They
12 logged it all down. They subdivided the lots.
13 Historically, you can go read about the Sadunife
14 community that used to live in there. There was a very
15 interesting cultural center in the '20s where there
16 were poets, nudists, counterculturists and
17 spiritualists. President Garfield's son lived there
18 and wrote, a novelist who lived there. So it's a
19 fascinating area historically. And then we have the
20 sand issue that's been ongoing. Since the advent of
21 automobiles, they've been driving up and down this
22 beach. Tried to lock the sand in with Ammophila. Now,
23 we recognize that the Ammophila is not a good idea.

24 Now, the current study, Daphne mentioned that
25 when they first designed the study we had some

1 questions and concerns. What we were curious about is
2 if this sand is moving in and causing issues back here,
3 we wanted more detailed information, for instance,
4 what's happening behind this sheet here or going down a
5 little bit further, what's going on behind these sand
6 sheets here? So down here, this is Edwards Air Force
7 Base. You can see these airstrips. All of these
8 little dots are missile silos for their tests. They
9 train the missile silo officers there.

10 So you've got sand sheets here, you've got
11 Devil's Slide here. You can see one blue dot. They
12 tried putting a sampling station there, and as you look
13 at the map, by the way, the blue dots are the two-week
14 stations. So you'll see yellow triangles, those are
15 their year-round stations that they have. And then
16 there was a number of blue dots on this study where
17 they put up air sampling stations for two weeks only.
18 This blue dot they got no data from because immediately
19 after putting it up, it got buried in windblown sand.
20 Keeping in mind this is out of the vehicle area, this
21 is not sand being blown because people are driving on
22 it.

23 So while there is plenty of the study that we
24 need to pay attention to, be concerned about, and
25 figure out how to address, there's also on the flip

1 side more questions that we have about what's going on
2 here where you don't have the vehicular activity
3 looking front and back. And so we're hoping to gather
4 some more data so we can put the data from this study
5 in context and then decide how to move forward from
6 there.

7 CHAIR WILLARD: So you mentioned that the
8 Division is going to be looking at the report. Will
9 Division staff look at the data themselves or will you
10 outsource this to a third party, peer review type of a
11 process?

12 DEPUTY DIR. GREENE: Not sure yet. We need to
13 look at it. As I mentioned, we did have a team who was
14 working with this group early on, and so I think it is
15 difficult because there was really some disagreement
16 about some of the two-week studies, locations of some
17 of the other monitors. Differences, as Tim alluded to,
18 Lake Owens versus the sand here. There is just a
19 variety of questions. So I think it would be premature
20 to say that, no, we disagree with this study. We don't
21 know yet. Clearly it says that they feel that there's
22 an issue that could be attributed to the park; not
23 sure, need to look at the larger landscape.

24 ATTORNEY LA FRANCHI: One of the issues in that
25 regard was the team that traditionally the state would

1 look to would be the group at University of California,
2 Davis, the Delta Group. So usually the department
3 would contract with them to help with some of these
4 issues, and they're actually the team that participated
5 and led and conducted this study. So that would be one
6 issue.

7 I did receive a call from somebody the other day
8 asking if we knew of any from an outside group, if we
9 knew of any experts out there that they could contact
10 to look at the report for them, a private group. So
11 there will be a lot of that going forward.

12 CHAIR WILLARD: And perhaps you can address
13 jurisdiction. Can the county tell the state how to
14 operate a park?

15 ATTORNEY LA FRANCHI: In this context with
16 regard to air quality, State Parks or any State agency
17 is subject to the same air quality rules. Just like
18 Porter-Cologne, the water quality act, the Legislature
19 has basically -- these air quality districts operate
20 under the umbrella, if you will, of the California Air
21 Resources Board, which implements the air quality
22 requirements for the state. So they do have
23 jurisdiction to regulate discharges that affect air
24 quality throughout the state, including a state park
25 like this. There's going to be some questions about

1 how extensive that jurisdiction is, what the limits
2 are, and those sorts of things. But they do have the
3 jurisdiction.

4 CHAIR WILLARD: Do we have any sense of time?
5 March 3rd there is a workshop. What are the next steps
6 and where is this leading us to?

7 DEPUTY DIR. GREENE: We're trying to sort
8 through that right now, literally. It's been one of
9 those issues where the discussion started early on back
10 in November about the study. We had not seen it. As I
11 mentioned, it didn't get released until this week, so.

12 ATTORNEY LA FRANCHI: The workshop is March 3rd.
13 I believe the board, the air quality district board,
14 actually has its meeting to discuss this item on
15 March 26th, which we'll be watching that closely and
16 attending. We'll have to look at the agenda to see. I
17 believe that will be just the first time that the board
18 itself will have an opportunity to publicly address the
19 study, get a presentation on it. As you know, they
20 have to operate in a public setting. They can't
21 operate behind the scenes due to their local Brown Act
22 requirements. So I think that will be the first time
23 we'll begin to get a sense of what they're thinking.

24 And at that point, we will begin to get a pretty
25 good idea of what their next steps will be process wise

1 for determining what kinds of enforcement action, if
2 any, they feel they're going to want to take with
3 regard to the study.

4 COMMISSIONER SILVERBERG: Tim, just a few points
5 of clarification. Is the PM 10 particulate, is that a
6 naturally occurring particulate?

7 ATTORNEY LA FRANCHI: Yes. Actually, if you
8 look at it, it can actually be salt particles. They
9 actually measure the distinction between sand particles
10 that come in off the ocean or salt particles that come
11 in off the ocean in just a fog condition because their
12 measuring devices are sensitive enough that they trap
13 those and they can distinguish between the sand
14 particles and salt particles. So PM 10 is naturally
15 occurring everywhere in various levels, yes.

16 COMMISSIONER SILVERBERG: And that's why on
17 windy days it's more prevalent?

18 ATTORNEY LA FRANCHI: Windy days, of course,
19 wind stirs it up. And there is a chart in here that
20 has four -- you have naturally occurring PM 10, so you
21 would have just sand dunes south, as Phil pointed out,
22 you're going to get PM 10 levels as they measure. So
23 they were making measurements to distinguish between
24 the volume of PM 10 coming off of other areas, as well.

25 COMMISSIONER SILVERBERG: Okay. It just sounds

1 like we're splitting hairs on this, but I guess...

2 ATTORNEY LA FRANCHI: I think there will be a
3 bit of splitting hairs, but the study has attempted to
4 look at all of that. As you weed through it, if you
5 take the time and are interested in it to read through
6 it, you'll see how they set up a number of different
7 testing ways to do that. So those are the questions
8 that we're going to have to be asking the hard
9 questions about, how does it work, how do they arrive
10 at the conclusion.

11 COMMISSIONER SLAVIK: I was curious as to what
12 perpetrated these concerns of the air quality board,
13 whether citizen complaints of health risk, were people
14 finding dust in their kitchens? Was it something like
15 that that actually perpetrated this?

16 COUNSEL LA FRANCHI: Under the California Health
17 and Safety Code, the air quality districts are set up
18 to measure air quality. So for the last 20 years, the
19 air quality district had been measuring high PM 10
20 levels up on the mesa. Of course, there has been quite
21 a bit of interest in the community about health rising
22 from the dust as the public becomes more aware of the
23 effect of PM 10 and the smaller particles. So I think
24 it's possibly a combination of both, but primarily the
25 air quality district has been looking at this district

1 for over 20 years.

2 COMMISSIONER SLAVIK: Anybody who lived in the
3 Palm Springs area or any of that area there knows that
4 any time the wind blows, the dust blows. I would
5 assume that the PM 10 was way out of sync with what the
6 national standards are in places like that, and people
7 move there all day long or live there, recreate there,
8 and things like that.

9 ATTORNEY LA FRANCHI: I think that will
10 certainly be one of the questions that will have to be
11 asked is how extensive is this, how much sand is
12 moving, what are the health conclusions and that sort
13 of thing. Those are good questions.

14 COMMISSIONER McMILLIN: I just have a comment.
15 The study just came out. I know our Division and staff
16 are just starting to review it and the date that you
17 mentioned is March 24th for the Air Pollution Control
18 District, and their report says the final report is
19 scheduled to be presented at the APCD board hearing.

20 I would hope on behalf of this Commission our
21 staff would be there, at least giving them something in
22 writing that this requires much further study, so they
23 don't get some sort of final report on all of the
24 studies that they've been doing, and then make some
25 sort of ruling that then we're playing defense.

1 DEPUTY DIR. GREENE: We certainly will be
2 working closely with them.

3 COMMISSIONER McMILLIN: And leave something with
4 them in writing.

5 DEPUTY DIR. GREENE: Correct.

6 COMMISSIONER McMILLIN: Because this requires a
7 lot more studying, and I hope somebody with a gavel on
8 their end doesn't make some sort of decision.

9 DEPUTY DIR. GREENE: And we will certainly let
10 you know the details. And any of you who would like to
11 attend as well, I would encourage you to do so. We
12 certainly will be there. The meeting is in San Luis
13 Obispo. We'll let you know. We'll get the details
14 out.

15 CHAIR WILLARD: So is there a potential for this
16 to become a final and accepted report at this meeting
17 on the 24th or the 26th?

18 ATTORNEY LA FRANCHI: I guess that potential
19 exists. That's one of the things we'll have to answer.
20 I don't think we have a good answer at this point.
21 This will be the first time they have had the
22 opportunity. They may want to discuss it and bring it
23 back. We'll look at the agenda and figure that out.

24 CHAIR WILLARD: Any other questions from
25 Commissioners on this item? I'd just like to thank you

1 for a very thorough report. That was very good.

2 COMMISSIONER SLAVIK: We were talking about
3 purchasing some land in that area, and this all ties
4 into this particular situation? I wanted to know where
5 that was.

6 ATTORNEY LA FRANCHI: Yes, the La Grand tract,
7 which is the county property, is probably 580 some odd
8 acres, is basically roughly this section here. The
9 State already owns the first 200 feet of the shoreline.
10 It's basically a couple thousand parcels, small
11 beach-front parcels and subdivisions that went bankrupt
12 in the '20s. And Bank of America eventually gave most
13 of that to the county. Since 1970, it's always been
14 operated by the State as part of the SVRA. It's been
15 operated as part of the Parks' general plan for
16 motorized recreation. It's included within the Coastal
17 Development Permit area, the fencing project. But it's
18 this property here that we've been trying to purchase,
19 subject to that separate litigation that's been going
20 on by the Sierra Club to block the purchase by the
21 State and have that property used as natural
22 non-motorized buffer. And some of the measuring
23 stations in this study were set up on that piece. So
24 the study did measure the effect of that piece, as well
25 as the rest of it.

1 CHIEF JENKINS: Just to understand why there are
2 so many lots out there, if you've been to the park,
3 when you pass heading south in the park Pole Four,
4 where the open area opens up, essentially we're talking
5 about Pole Four down to about Pole Six, and Pavilion
6 Hills is right in the center of that. So as I
7 mentioned, in the turn of the century, they built a
8 huge three-story dance pavilion there and they had a
9 boardwalk all the way to Oceano. That was kind of a
10 speakeasy during the day. And there was a land plan to
11 make that into its own town. There was a pier in front
12 of the Pavilion Hill, a huge dance pavilion. They
13 subdivided a lot of those lots. Many of them were
14 sold, a number of the original private ownership, as
15 well as the ones owned by the county and the state.

16 CHAIR WILLARD: I'm still trying to get a handle
17 on the process here and where this may be leading us.
18 So the final report will be presented on the 26th.
19 That is just this report. It doesn't make any
20 recommendations. It's just a report on the findings.
21 So what then happens? What are the next steps?

22 ATTORNEY LA FRANCHI: Those would be the next
23 steps, for the board to direct its staff to go back on
24 what it wants. I'm assuming there will be some sort of
25 a staff report leading up to that meeting that will

1 make some of those recommendations, and that's what we
2 would be looking for next is what kinds of
3 recommendations the staff would be making to the board
4 with regard to what the board needs or the staff needs
5 to do next in response to the study. But the study
6 itself, I haven't gotten clear to the end, but I have
7 glanced through it quickly to the end, and it doesn't
8 really get into recommendations or mitigation measures
9 at this point. It's basically data conclusions of
10 what's there. And so what happens next will be part of
11 this next process.

12 CHAIR WILLARD: So it is conceivable that the
13 staff report could have recommendations and those could
14 be adopted on the 26th?

15 ATTORNEY LA FRANCHI: That would certainly be
16 something that we would be concerned about, we would be
17 tracking. The superintendent there, Andy Zilke, has
18 established a pretty good close working relationship
19 with the staff at the Air Board, and they've been
20 communicating regularly. And to the extent the staff
21 has been able to give Andy a heads up about what's
22 coming next, kind of an early heads up, they've been
23 trying to do that. So that's also going on behind the
24 scenes as well as officially going on.

25 CHAIR WILLARD: Will there be some sort of an

1 appeal period where we can respond to their board's
2 recommendations, at that point they would say you need
3 to do this, this, and this?

4 ATTORNEY LA FRANCHI: Absolutely. I believe
5 there's an appeal process. We'll still trying to get
6 ourselves into it. They've been dealing with water
7 quality, not just us, so we've been trying to get up to
8 speed a little more technically on some of that. I
9 believe there is an appeal on any action taken by an
10 air quality district to the California Air Resources
11 Board. So there are a number of administrative
12 appeals. Of course, the first step is we have to
13 participate in the meeting, make our objections known,
14 get them on the record, letters, actual appearances,
15 and getting verbally on the record in order to preserve
16 all of those rights. But I think there are a number of
17 steps. And my experience with these, for example, I
18 think it took quite a while for the quality boards to
19 establish the standards and the permit requirements,
20 enforcement requirements for construction activities,
21 for example. That was a long process that involved the
22 public and hearings and that sort of thing. So I don't
23 think that's going to happen overnight, but it's not
24 going to be something that's going to happen on the
25 24th. I would expect it to stretch out for several

1 months, if not longer than that.

2 CHIEF JENKINS: One last point just to round out
3 your understanding of the area. This is Oso Flaco Lake
4 that I was describing right here. To really understand
5 the dynamics of the coastline, it's also important to
6 understand where we are allowing vehicles, where we
7 aren't, and what we are managing. Because the Division
8 not only has the property that we all recognize as
9 Oceano Dunes, on the map that you have, the green line
10 that you'll see generally depicts the fence. So that's
11 the limits of where vehicles can go. This large open
12 land sheet just to the north of the riding area is the
13 dune preserve. We manage that as well as south of Oso
14 Flaco Lake, there is a large peak that goes way back in
15 here, and this is huge open sand sheet here that we
16 manage, and then on the front of that sand sheet
17 there's a lot of Ammophila that's still growing there.

18 So one of the issues that we've been dealing
19 with that's related in some sense, because everything
20 at Oceano Dunes tends to all begin to mesh together at
21 some point, is this is one of the most successful
22 snowy plover colonies on the coastline. We
23 aggressively manage that. There is a large section
24 here that we protect seasonally so that their nesting
25 activities can go on. And one of the questions that

1 the biologists and whatnot have always had is that
2 right next door in a very similar terrain, why aren't
3 there birds nesting over here. One of the things that
4 we looked at over the years and tried several times and
5 may continue to explore, is ways to make this more
6 attractive so you can have greater success with our
7 snowy plover colony, and that might involve moving this
8 non-native Ammophila off the front dunes. And then
9 that would relate -- that's full circle, I'm not just
10 rambling -- a full circle comes back to, so what would
11 disturbing this soil to create desirable habitat for
12 snowy plover, to restore the habitat to its natural
13 condition -- they like a wide open sand sheet so they
14 can see predators approaching. That's why they nest on
15 open sand. If we remove some of this Ammophila,
16 started aggressively managing for the species here, are
17 we going to be destabilizing sand once again that's
18 going to end up causing more of this sand movement
19 inland.

20 So I just mention that to demonstrate that when
21 we're talking about the management of this piece of
22 landscape, it becomes very intricate. Every action has
23 a reaction, and there's no easy answers out there.

24 COMMISSIONER SLAVIK: Can you just address the
25 increase of riding versus non-riding?

1 CHIEF JENKINS: The park is roughly half and
2 half. Actually, I think we have a little more acreage
3 closed to riding than we do open. The entire park is
4 3600 acres.

5 COMMISSIONER SLAVIK: Which goes from where to
6 where, our responsibility?

7 CHIEF JENKINS: Our responsibility goes from --
8 up here is Grand Avenue, if you're familiar with the
9 beach, and then this is Pier Avenue. Pier Avenue comes
10 right through and that dumps you right onto the beach.
11 Grand Avenue is the one that goes all the way up to the
12 highway, and then there is Grover Beach. So we manage
13 from just north of Grand Avenue where there are no
14 vehicles allowed. So we have the non-vehicle area
15 going north. Vehicles are allowed on the beach at
16 Grand Avenue, but only highway licensed vehicles as far
17 as post number two. And then from post number two down
18 to about a mile short of the creek is the riding area.
19 And you go about a mile past the creek, and that's once
20 again into some of the area that's closed. So roughly
21 this large swath around here is all closed and
22 protected for habitat issues, and then this area is
23 open for riding. And once again this northerly is
24 closed for habitat issues, and then you have the
25 Mid Rams area.

1 COMMISSIONER SLAVIK: What happened all the way
2 down to the Devil Slide, we don't manage that; it's not
3 a state park?

4 CHIEF JENKINS: No, when the fence was put up in
5 the 1983 time period, prior to that people could freely
6 drive down the coastline. But this is privately held
7 land, Union Oil lands. Down here you've got some
8 county-owned lands, a huge sand plant down here and
9 whatnot. So this was never land that was owned by the
10 Division, by the program.

11 And so when the decision was made that they
12 needed to confine people to the area that we actually
13 owned and managed, that's when that fence was put up,
14 and all of the access to that area was not allowed any
15 longer. It's not our land to allow people onto.

16 COUNSEL LaFRANCHI: I could add just a little
17 bit in terms of the ownership. The SVRA, which this
18 program has jurisdiction over, kind of does a little
19 bit of jagged stuff out in here. The fence line was
20 established as part of the coastal development permit
21 to implement a general development plan that was
22 established in the '70s. And the fence line, as you
23 can see, kind of follows the vegetation line here to
24 protect these vegetated areas, Oso Flaco Lake.

25 There was a big controversy over whether Oso

1 Flaco Lake and Oso Flaco Road should be the primary
2 access and staging point for the park. And between
3 State Parks and the Coastal Commission, that's a
4 sensitive riparian area so it was not allowed to do
5 that and was set aside. So the 3600 acres kind of does
6 something like this. This area that's managed by
7 agreement is actually part of Pismo State Beach. And
8 this first 200 feet is actually on the ownership
9 records Pismo State Beach, which is designated for
10 vehicle access in the park. So 3600 acres is kind of
11 like this, 1500 acres is this, including the 500 acres
12 that's owned by the county, and then this is the
13 seasonal bird nesting closure of 300 acres. So you end
14 up with about 1200 acres of riding area, except for
15 these vegetated islands.

16 DEPUTY DIR. GREENE: I have a feeling we may be
17 going to Oceano Dunes in the near future.

18 CHAIR WILLARD: An interesting field trip. I
19 think it's time to move on. Thank you so much for a
20 very thorough presentation. I'm sure we'll be talking
21 about this at our next meeting.

22 (Break taken from 9:56 to 10:07 a.m.)

23 CHAIR WILLARD: I'd like the record to show that
24 Commissioner van Velsor has arrived. He was delayed by
25 a traffic accident on the Cal train route.

1 DEPUTY DIR. GREENE: If I may indulge the
2 Commission, I'd like to move to the budget update and
3 take Item E at the end of our program, if that's all
4 right. If there is no objection to that, we will move
5 into the budget.

6 **AGENDA ITEM IV(B)(1)(f). Budget Update**

7 CHIEF JENKINS: Daphne said if I talked about
8 the budget, she would let me talk about Oceano Dunes.
9 I had the fun part, now I get to do the budget.

10 There were sheets on the back table that weren't
11 in your binder because, you never know, sometimes in a
12 budget things can change in short notice. So did you
13 all get a copy of that? If not, we need to bring some
14 copies up to you. You should have two documents. One
15 is going to have a bunch of highlights on it. So what
16 I'm going to be reviewing is the budget that's proposed
17 at this point by the Governor. So the sheet you're
18 going to have in front of you in a moment is going to
19 show the last two years' budget, and then the proposed
20 budget for fiscal year '10/'11. So it's important to
21 keep in mind that's the Governor's budget that you're
22 looking at on the '10/'11 budget, still subject to all
23 of the joy of California's budget processes; so it's
24 subject to change, in other words. Most notably, we'll
25 see a new budget, potentially revised budget in May as

1 we're probably all familiar with the May revision of
2 the budget.

3 Looking first at the sheet with no highlights,
4 the Department of Parks and Recreation 2010/'11 Fund
5 Condition Statement. For those of you in the audience,
6 feel free to grab copies off the table if you don't
7 have one. You'll see three columns of numbers on the
8 right-hand side. You can go on the web and get this
9 right off the web off the Governor's budget by the way.
10 We just retyped it so we could fit it all on one page.
11 The right-hand three columns represent the last two
12 years of budget and then the proposed budget.

13 Remember, I may have mentioned this previously,
14 if not, whenever you're looking at these budgets, the
15 first column, in this case the fiscal year '08/'09
16 column, those are actual numbers. In other words, that
17 budget concluded. That kind of wrapped everything up,
18 paid the bills, signed the checks, and those are real
19 numbers.

20 The middle column, which is fiscal year '09/'10,
21 that's the fiscal year that we're still in, and those
22 numbers are still considered estimates. And some of
23 those numbers won't be completed and won't be finalized
24 until we pay all of the final bills, et cetera.

25 And then the '10/'11 project is the projected

1 budget. That's important to keep in mind because
2 sometimes people will get concerned about seeing large
3 disparities between the three columns, and that's often
4 the answer is because that first column was actual
5 numbers. It's the difference between budgeting and
6 accounting. So budget is what you think you're going
7 to spend. Then you do the final accounting and track
8 it down.

9 The top half of the sheet is the revenues --
10 well, you see the beginning balance up there. That
11 rolls over from each year. And then next is the
12 revenues, transfers, and adjustments. So that's all of
13 the incomes we predict for the fund. So going to the
14 far right-hand column, that first item, off-highway
15 vehicle fees as \$17 million, so that's the projected
16 revenue from the sale of green stickers and red
17 stickers. If you look across the columns, you can see
18 the year that's an actual number, where they've not
19 just had the estimate of \$17 million, it was actually
20 in fiscal year '08/'09, \$19,570,000.

21 The next line, that's what we are getting from
22 the gate fees, so we're projecting \$3 million there.
23 Then you have two lines for investments and loans.
24 That's money that sits in the accounts. Sometimes they
25 will put it into various investments so it's not just

1 sitting there, it's collecting some interest. This
2 next one, rent from land or revenue from the use of
3 property and money, that's actually -- and I won't make
4 you put the picture up there again, but if we were to
5 look at the picture again of Oceano Dunes, right behind
6 Oso Flaco Lake on land that was originally purchased to
7 be a campground, and that entrance that Tim LaFranchi
8 was talking about potentially there, since it was never
9 developed, it's just good agricultural land. So we
10 lease that land out, and that money comes into the
11 fund, and we can use that for the program.
12 Miscellaneous revenue is just that. Parking
13 violations, those come into the fund, about \$100,000 a
14 year. And then, of course, the big number on down
15 there from the Motor Vehicle Fuel Account, \$60 million
16 projected. You can see that the last actual year was
17 slightly higher at \$65 million. So that's the fuel
18 taxes on fuel burned on OHV recreation.

19 Right below that, you can see that in fiscal
20 year '08/'09, it reflects the \$90 million that was
21 borrowed from the fund. That money is due back in
22 fiscal year '12/'13. And then the next year, they
23 borrowed \$22 million. Of course, this all happened at
24 once because that one budget year was delayed. So it
25 was happening all at once, but it's reflected in two

1 budget years. They borrowed another \$22 million. On
2 that one, they did not say that they were going to
3 borrow it for four years, so it drops back to the
4 statutory requirement that they pay it back in two
5 years, which means that it will actually come back
6 sooner than the \$90 million. So it's due back in
7 '11/'12. So that's the highlight of what we expect to
8 come in, what we expect to spend --

9 COMMISSIONER SLAVIK: Is there interest
10 associated with those loans?

11 CHIEF JENKINS: No, the Legislature said those
12 were borrowed without interest.

13 COMMISSIONER McMILLIN: So that's why the upper
14 line items are a lot less than the \$4 million and 16,
15 income from surplus money?

16 CHIEF JENKINS: Right, because those loans are
17 just kind of the bits and pieces from year to year. We
18 have leftover money from year to year. Depending on
19 how much money is there, they'll put that into
20 investments and that will get some interest. But it's
21 not as though we had \$112 million in an
22 interest-bearing account, so that's why we're not
23 seeing the really big interest numbers coming up. Does
24 that answer your question?

25 Of course, then the bottom half of the page is

1 the expenditures that we're expecting to have coming
2 up. And so the first line there, state operations, and
3 this is what I was saying about understanding the
4 difference between the first year which is actual and
5 the current year. If one were to look at this page and
6 say, why have we changed state operations from
7 \$48 million to \$51 million to \$59 million, if you were
8 looking at budgets as you went through them, instead of
9 these kind of how things turn out, in that first year
10 where we spent \$48 million, that year we had actually
11 budgeted -- remember, if you will, that that was the
12 first year of the BCP that got the new positions and
13 the new equipment and the new money in the grants
14 program and all of the various things. So that was the
15 first year, and we were budgeted, had you gone back to
16 the budget projection of what we were going to get that
17 year, for \$64 million. Then came a hiring freeze and a
18 number of other spending freezes for the state, so we
19 couldn't buy the equipment. A lot of that was one-time
20 money, by the way. So when you first do a large
21 increase in staffing, there is a one time in costs,
22 setting up office space, setting up the initial
23 purchase of the equipment, et cetera, then it drops a
24 little bit after that. That first year with the
25 spending freeze and the hiring freeze, we weren't able

1 to spend much of that money. We only spent \$48 million
2 of that, and the rest reverted to the Trust Fund,
3 available to be pulled out for the future years. We
4 didn't lose the money; we just weren't able to spend
5 it.

6 The next year, '09/'10, where it says that we
7 we're going to -- we spent \$51 million, if you were to
8 look at the actual budget for that year, it was
9 \$54 million, but they took out \$3 million because of
10 the furlough program. So they assumed that we were
11 taking a 15-percent cut in our staffing because we're
12 doing the furloughs that we're still on. And so even
13 though they originally budgeted us for \$54 million,
14 because of furloughs, they just take 15 percent off the
15 top. That's why this reflects a lower number, and then
16 the current year of \$59 million.

17 If you were look at it without those anomalies
18 from the previous three years, it's pretty much a level
19 projection for spending needs on the state operations.
20 State operations includes everything from the grants
21 programs as far as the staff supports and all of the
22 environmental review costs of looking at those grants,
23 to the running of the SVRAs, to all of the operational
24 things that we do.

25 Local assistance, that's another confusing line

1 because you see nothing one year, \$54.2 million the
2 next year, and then \$27.1 million. What that really is
3 is \$27.1 million per year, but that fiscal year '08/'09
4 when everything was locked up in the budget process,
5 they didn't give us the grant money, so they gave us
6 two years of grant money at once in fiscal year
7 '08/'09. That's why that's \$54.2 million on that year.
8 And then we're, of course, projecting the \$27.1 million
9 to go into the grants program this year once again.

10 And then finally the last number is capital
11 outlay. Capital outlay includes both capital
12 improvement projects like improving the four-by-four
13 area at Prairie City State Park, all the way to
14 opportunity purchase funds that we get each year for
15 buying miscellaneous end-holding parcels, those types
16 of things, to larger acquisition funds. Those are
17 enumerated on the other sheet that has the yellow
18 highlights. The other sheet includes all of the
19 capital outlay projects for the Department of Parks and
20 Recreation, and we highlighted the ones specific to the
21 OHV program. So that's the budget as it stands at this
22 moment.

23 CHAIR WILLARD: Thank you. Commissioners, any
24 questions on the budget?

25 COMMISSIONER SLAVIK: I have a question on

1 litigation. Where does that show up when you get
2 charged for Attorney General fees for these lawsuits
3 we've had to fight in the last year?

4 CHIEF JENKINS: Attorney General fees would come
5 out of our operations costs. So it wouldn't show up as
6 a line item on here. That large operations number that
7 you see there, which in the '10/'11 years is projected
8 at \$59 million, would cover, amongst other things, any
9 costs of paying litigators over at the Attorney
10 General's Office.

11 CHAIR WILLARD: So is the bulk of that
12 \$42 million for capital outlay is that for the purchase
13 of the Freeman property?

14 CHIEF JENKINS: No, the largest single line item
15 on the capital outlay, \$42.9 million, is a Southern
16 California acquisition where we're looking to try to
17 buy some land in Southern California to purchase
18 properties down there. And we had set aside
19 \$32 million.

20 CHAIR WILLARD: But there is no specific
21 property in mind, it's just a general?

22 CHIEF JENKINS: We had had, if you recall years
23 back, the Bakersfield project that due to some problems
24 with access and unavailability of water, et cetera, we
25 weren't able to do. So we would like to find still

1 some good opportunity down there. There's a crying
2 need there. So this money would be set aside.
3 Hopefully we can find a good place to invest.

4 **AGENDA ITEM IV(B)(3) Legislation Update**

5 DEPUTY DIR. GREENE: In the legislation item, we
6 have just started the process -- it will be an
7 interesting year, no doubt -- but right now we actually
8 don't have anything significant. There is one bill.
9 It's a placeholder, but there is nothing right now that
10 we can bring forward to you. I think BLM Mike Ahrens
11 will highlight S 1328, which started out as HR 689,
12 which was the land exchange for BLM and Forest Service.
13 We briefed you on that about a year ago, so that is
14 still moving through the process. So all of these
15 things are taking quite some time.

16 At this point, John Pelonio with the public
17 safety update.

18 **AGENDA ITEM IV(B)(4) Public Safety Update**

19 OHV SUPT. PELONIO: Good morning, John Pelonio,
20 Public Safety Superintendent for the Division. The
21 Division public safety staff participates in a variety
22 of site visits and meetings to help the other law
23 enforcement agencies to address their OHV issues and to
24 be successful in their grant projects. We conducted
25 site visits with five different agencies participating

1 in meetings to plan for the law enforcement on the
2 Rubicon Trail for the summer. I attended grant
3 workshops, search and rescue coordinators meeting, and
4 a meeting with the DMV, CHP, and Air Resources Board to
5 talk about registration issues. We also taught some
6 classes. Division staff and the California Nevada
7 Snowmobile Association taught snowmobile safety winter
8 survival and a class for instructors for the Off-Road
9 Pals Snowmobile Element. Division staff also taught a
10 law enforcement update class in Fresno. And then one
11 more item of interest, the safety regulation revision
12 for Oceano Dunes did take effect January 1st, and we're
13 working with Oceano staff to do the education and
14 outreach leading up to enforcing that.

15 DEPUTY DIR. GREENE: One more item we have,
16 recently John and the team are looking at working with
17 BLM and Kern County and the Forest Service to address
18 some issues that have come up to us regarding
19 incursions on the Pacific Crest Trail, so we're going
20 to be looking at that and working with those other
21 agencies to make sure that we can address that.

22 My apologies to Sixto Fernandez for the grants
23 update.

24 **AGENDA ITEM IV(B)(2). Grant Program Update**

25 OHV STAFF FERNANDEZ: Good morning,

1 Commissioners. My name is Sixto Fernandez, and I'm the
2 grants manager. I'm going to give you a quick update
3 on the grants program. The grants team has been very
4 busy. Since the last Commission meeting, we were able
5 to complete and submit the regulations package that we
6 were working on last year. And, in fact, on
7 January 11, we received final approval from the Office
8 of Administrative Law on the grants regulations
9 package. Also, on January 11th was the start of the
10 new grant cycle. And in your folder, there is a sheet
11 entitled, "Important Dates."

12 To kick off the grants cycle, we had two
13 workshops, one down south in Ontario, which was held on
14 January 11th and 12th, and one in the north in
15 Sacramento which was held on the 13th and 14th. They
16 were both well attended. We are in the middle of the
17 application process, and as you can see from the one
18 sheet, and there are some in the back to look at, the
19 first important date that's coming up is Monday,
20 March 1st. That's when the preliminary applications
21 are due. That's an important date. If they don't
22 submit their preliminary application on that date, they
23 can no longer continue for this grants cycle. So it's
24 very important that they submit their application then.

25 March 2nd through April 5th is the public

1 comment period. This is the opportunity for the public
2 to view the preliminary applications and make comments
3 to the applicant and to the Division. As you can see,
4 the public can view the applications via the OLGA
5 website, and there is a link on the Division website to
6 take them there. On Monday, we'll have some
7 information for the public to be able to view a link
8 there and give them directions on how to proceed.

9 May 3rd is the final application, that's when
10 it's due, a very important date. They miss that date,
11 they can't continue. June 7th, intent to work posted
12 on the Division website. That's when we're going to
13 put the intent. June 7th through July 6th is the
14 30-day appeal period. Actually, it's the opportunity
15 for the applicants to appeal their score and their
16 application.

17 And then if there are no appeals, July 7th is
18 the first day they can do the agreement. That's the
19 quick update. If you have any questions, I can answer.

20 COMMISSIONER McMILLIN: Since we are very close
21 to March 1st, what are the applications looking like?

22 OHV STAFF FERNANDEZ: Taking a look at
23 yesterday, there are still quite a few applications
24 that are being worked on. This week has been very busy
25 with calls, with e-mails from applicants asking

1 questions and needing help. So I anticipate the next
2 three, four days are going to be very busy answering
3 calls.

4 COMMISSIONER McMILLIN: So in your head, you're
5 keeping track of how many are coming in in the four,
6 five different categories we have? Does it seem like
7 we'll have enough applications to use most of the
8 money?

9 OHV STAFF FERNANDEZ: Yes, we anticipate that.

10 COMMISSIONER McMILLIN: In all categories?

11 OHV STAFF FERNANDEZ: We're hoping in all
12 categories. I won't know until obviously after
13 March 1st, but we will have a better idea.

14 COMMISSIONER McMILLIN: And then Dan, is Dan
15 still around?

16 OHV STAFF FERNANDEZ: He's still around. He's
17 still with the grants team, and I do appreciate his
18 assistance in providing the updates in the past.

19 COMMISSIONER McMILLIN: It's nice to meet you.

20 DEPUTY DIR. GREENE: I will say in our efforts
21 to do customer service for the grants applicants,
22 recognizing they may need a little more time, the
23 deadline is at 12:00 midnight on Monday --

24 OHV STAFF FERNANDEZ: 11:59.

25 DEPUTY DIR. GREENE: -- 11:59. I will say I

1 remember a year ago e-mailing Sixto at 11:30 and asking
2 are people still out there? He wrote, yes, there are a
3 couple, they're still working on it. So we continued
4 to check the clock, and I think the last one that was
5 submitted was at 11:58, so they did get it in.

6 And, Sixto, my apologies because you have been
7 with us for quite some time. Commissioners, Sixto is
8 the new grants manager. In that regard, Dan works for
9 Sixto, and Dan says that he enjoys being here but right
10 now he is happy to be working on those grants.

11 OHV STAFF FERNANDEZ: He's answering the calls
12 right now.

13 **AGENDA ITEM IV(B)(1)(e) Ocotillo Wells SVRA Update on**
14 **"Roughneck Rendezvous Geocaching Adventure"**

15 DEPUTY DIR. GREENE: And then finally, but not
16 least, Kathy Dolinar. I wanted to give you an update
17 on a very special event that the Chief Phil and Tom
18 Bernardo and I from the Division had the privilege to
19 attend.

20 KATHY DOLINAR: Good morning, Commissioners.
21 Kathy Dolinar with Ocotillo Wells, happy to see you
22 again. And I wanted to bring you up to speed. We had
23 a wonderful event. Vicki is handing you our staff
24 summaries of what occurred on our geocache Roughneck
25 Rendezvous. There is various information on your desk

1 about it. And the idea came from the geocaching
2 activity that was occurring in our park.

3 Geocaching are treasures hidden throughout State
4 Parks, national parks, all sorts of areas throughout
5 the State of California and the United States. It's a
6 fast-growing form of recreation where visitors utilize
7 GPS technology, sort of a modern day scavenger hunt.
8 They take their GPS technology, go to a website called
9 geocache.com, and from the website they download the
10 locations of things that they then go out and look for.

11 As you can imagine, because we're sending people
12 out to look for various things, that could cause a
13 number of concerns and controversy in terms of
14 management. You'll find different California State
15 Parks where the activity is allowed or not allowed. At
16 Ocotillo Wells, we decided that it was a viable form of
17 recreation that when managed could be highly
18 sustainable, and we have encouraged people to geocache
19 in our park.

20 Two years ago, we developed a policy on geocache
21 that if anyone is going to place a new one in the park,
22 they contact the park through geocache.com, and a team
23 of our public safety and resource staff goes out and
24 reviews the site they're going to place it at before
25 the cache is placed. Then it's posted on geocache.com,

1 and people come to see it.

2 We had had a lot of people geocaching in the
3 park. We have had a group from San Diego Geocaching
4 Organization come out and do a cleanup in the park and
5 decided that we would like to have an event and promote
6 high-quality responsible recreation in the park. Our
7 goal for the event, as I said, was to promote
8 responsible sustainable geocaching and off-roading
9 recreation. The theme that we developed was geocaching
10 and off-roading can be fun, safe, educational and
11 sustainable when consciously following the park's and
12 Tread Lightly principles. We brought the people out,
13 over 200 registered for the event. Over 700 were
14 participating because only one person per vehicle had
15 to register to get the information and the site
16 location, and we wanted to make the connection between
17 park resources and the participants in the areas of oil
18 exploration, military history, cultural history,
19 natural history, and geologic features. We wanted to
20 inspire in them a feeling of responsibility toward
21 their park and inspire a feeling that they were there
22 for the first-ever event. This was the first ever in
23 California State Parks geocaching event that was put on
24 by State Parks staff.

25 So we had a three-day event. Friday evening, we

1 had a campfire program that consisted of GPS units from
2 day one when they navigated under the stars to modern
3 day GPS technology, the use of their GPS unit so that
4 they were able to utilize them the next day during the
5 event, and then a stargazing program.

6 The next morning we had one of our first
7 technical challenges. On that morning they were to
8 register and download the sites into their GPS unit
9 from our computers. So as you know, when you're using
10 computers, there's always some sort of error that
11 occurs in that, and that was one of those learning
12 curves for us. We've done a lot to work with GPS units
13 in our parks; some day hoping that the visitors will be
14 able to download a full site of all of our trails
15 through the same type of units that they can take out
16 with them and be able to navigate through the park.

17 So they downloaded these. They went out where
18 we had placed 111 interpretive geocaches in the park.
19 Now, if you haven't geocached or heard about it before,
20 that's a huge number. For some reason when we start
21 with an idea of one, at Ocotillo we end up with 111.
22 So these were placed very carefully through an
23 environmental review, which also was another learning
24 curve and one of our largest challenges, learned that
25 it was most effective to send out the interpreter who

1 had the idea for the cache, a natural resource
2 specialist, a cultural resource specialist, a GIS
3 person, and a trails person in the initial placement so
4 that once they were reviewed and moved -- we moved them
5 many times during this process -- we had them in a
6 solid location. Next year we will be doing that from
7 the start. So 111 caches were placed.

8 So the idea behind each cache was to make it
9 something educational. The people received the green
10 package that you have when they registered. It had all
11 of the caches on it. You had to navigate to find the
12 cache, which you were able to drive on an existing
13 trail, park your vehicle, and walk close by to get to
14 the cache. They would open the cache, which was a
15 covered Tupperware with sand glued to it so it blended
16 in with the environment well. They would open the
17 cache, and in it were one of the interpretive cards
18 that you received. Through reading that interpretive
19 card, they had to answer the question in their booklet.
20 If they successfully answered the question or if they
21 decided to cheat, they could give themselves a stamp
22 that said they had passed that geocache point. So
23 there were 111 of those, Like I said. They were either
24 through the educational cards, we had three of them
25 that were actually interpretive easy-ups with tables

1 where we had exhibits on geology, live animal exhibit,
2 and the history of the Gas Stones with people
3 explaining them. You had to attend that in order to be
4 able to answer that question. And several others were
5 called earth caches where we had educational panels
6 that they needed to get out of their vehicle, take a
7 look at the panels, read them, and learn something from
8 that to be able to answer the question that was in
9 their green booklet.

10 At the end of the day, they brought those back
11 and submitted those to get raffle points. We had a lot
12 of partners who donated prizes. The largest one I
13 believe was a set of four 37-inch tires for someone's
14 jeep. So we had quite a few things donated. We had a
15 raffle, had a barbecue, and the next day there was an
16 evening program that night, the next day also included
17 what we called, "Cache in Trash Out," where everyone
18 participated in the trash cleanup.

19 The event was highly successful. We did a
20 survey at the end to get people's input to get what
21 people liked, what they didn't like. We read over a
22 hundred listings on geocache.com from people who had
23 attended the event. And people who attended the event
24 who had been to the park before but never geocached and
25 people who geocached from other states, came from Utah,

1 Nevada, Arizona, and the number one comment from
2 everyone was we loved the opportunity to learn about
3 the history of the park. The educational portion was
4 by far the number one experience. So it was kind of
5 surprising to us. We thought maybe some of the people
6 would say we enjoyed seeing the park or we had never
7 been to the park. But it was, wow, you guys really
8 taught us something. It was just wonderful.
9 Unanimously it got high reviews from everybody. The
10 event was extremely successful, and we will be doing it
11 again next year.

12 Friends of Ocotillo Wells, we had had a person
13 who designed the brochure for us. We had made it into
14 a collectible coin, the Friends of Ocotillo Wells are a
15 cooperating association, had the coins made and sold
16 them. The goal was not to make money. The goal was to
17 have people be able to purchase and take something with
18 them that was collectable. These coins which you will
19 each receive -- thank you for the Friends of Ocotillo
20 Wells donating them to you -- is registrable on
21 geocache.com. So if you were inclined to -- I think
22 once you see them, you'll decide you're not going to
23 place yours in a geocache and let them go away. But if
24 you were, you could place them into a geocache and
25 follow it on a trip. When you don't get to take a

1 vacation, you can watch your coin go on the computer.
2 People place these. They are registrable by number.
3 And if you placed it in a cache and someone picked it
4 up and took it to another cache, you could actually
5 follow its path on the website. So I will be handing
6 these out to you guys. And if you have any questions,
7 I'll entertain those. If we don't have time, you can
8 grab me on a break.

9 CHIEF JENKINS: While she's handing those out,
10 if I may, the geocaching in State Parks have been one
11 of those issues that we've been struggling with, as
12 often is the case with bureaucracy. When we have a new
13 form of recreation, no one knows quite how to deal with
14 it.

15 I've got to compliment Superintendent Dolinar.
16 Kathy is taking the lead of really trying to use this
17 as an opportunity. She has developed a policy for
18 Ocotillo Wells that is being looked at as the model for
19 the department's policy of how you can use this to
20 leverage your staff. She's created a huge amount of
21 positive energy in the units down there. This is one
22 of the cases where you take something that could be a,
23 quote, problem to manage and turn it into a huge asset.
24 So thank you, Kathy, for that. (Applause.)

25 OHV SUPT. DOLINAR: And, again, I would like to

1 invite you all to the park. Today's newspapers
2 throughout the State of California talk about the
3 wildflowers at Ocotillo Wells and the many programs
4 that we're offering. I hope to see you all there for
5 those.

6 DEPUTY DIR. GREENE: Expect to see everybody
7 there next year. We said to Kathy, here's the problem,
8 you had 200 people registered, just wait until next
9 year, how do you try to manage all of them. It may
10 turn into a week long or double weekend or something.
11 Thank you again, Kathy.

12 COMMISSIONER McMILLIN: Kind of on a related
13 note, how did the big jeep run go this year?

14 OHV SUPT. DOLINAR: The Tierra Del Sol will be
15 this coming Saturday. Still room to sign up.
16 Actually, not this Saturday, a week from Saturday,
17 March 6th. They're looking at about 500 or so
18 preregistered already, and we expect in the area of
19 8,000. They'll be doing it on the north end of
20 Ocotillo Wells. We are also participating through our
21 education program and have two booths and programs
22 going all day long with it. So it's going to be a
23 great weekend, perfect weather, no winds, lots of
24 flowers.

25 COMMISSIONER SLAVIK: I was just going to ask

1 about the flowers this year. Where can we go to see
2 the great display of California poppies?

3 DEPUTY DIR. GREENE: If you are interested, we
4 will certainly get that to you. We tend to find more
5 people at Hungry Valley looking at poppies than at the
6 poppy reserve. So we will try to find out. In terms
7 of the wildflowers right now at Ocotillo?

8 OHV SUPT. DOLINAR: Within a week, they will be
9 starting and be there about four weeks.

10 CHAIR WILLARD: Okay. Is that it Deputy
11 Director from your report?

12 DEPUTY DIR. GREENE: That is it.

13 CHAIR WILLARD: What I'd like to do is open it
14 up to public comments on Commissioners' reports and on
15 the Deputy Director's reports. So, again, if you
16 haven't and you'd like to speak on either of those two
17 business items only, please fill out the form found on
18 the back table and hand it to Vicki over here.

19 ED WALDHEIM: Good morning, Mr. Chairman, Ed
20 Waldheim, Friends of Jawbone, Friends of El Mirage,
21 CTUC.

22 I want to commend on all of the reports. They
23 were online. We were able to pick those up and pull
24 them out. The strategic plan, we don't have the book,
25 we just have the CD. So we have to download it, I

1 guess. But is there a date? What do you expect from
2 us on that document? Is the public supposed to get
3 back to you? I don't know.

4 CHAIR WILLARD: The strategic plan or the 2011
5 Report?

6 ED WALDHEIM: The strategic plan.

7 CHAIR WILLARD: That's already done. That's
8 finished.

9 ED WALDHEIM: So there's nothing from the public
10 that you want on that. It's done, published, it's out.

11 The Carnegie report, it was an incredible
12 report. I have heard about it. I have been there many
13 times, but it was fantastic to get a review.

14 The Rubicon report, one of the things,
15 Mr. Jenkins, that I didn't hear you talking about the
16 centerline, I didn't hear you talk about RS 2477. In
17 the document it's very clear that just because you do
18 the centerline, it doesn't mean we're giving up
19 anything else on that thing. So I want to make sure we
20 don't lose sight of that one.

21 Oceano Dunes, that one really has me concerned,
22 and I'll let Jim Zilke know from Friends of Oceano
23 Dunes, I'm on the board of that group. And one of the
24 things that we have to remember that if you have crust
25 on the sand, yes, it may be good for PM 2, but then the

1 snowy plover will not like it. Remember, the reason we
2 have snowy plover is because we churn up the sand, and
3 they like it there. The reason down at Jack Bill's
4 property we don't have snowy plover is because we're
5 not there. So if you want us to have snowy plover
6 still there, let us go churn up the sand a little bit,
7 and then you can get those guys to come on through and
8 get going into that area. So that's something we have
9 to make sure that we remember.

10 On the legislation, SB 615, I think we're still
11 in that one there for the cities to be able to
12 designate trails. Twenty-Nine Palms, we are looking
13 at, Richard is working on it. We are trying to figure
14 out on that one.

15 Cal Pals has been cancelled for this year.
16 Forgot who was going to do that. I'm sad to hear that.
17 I hope next year we can bring that up again. That was
18 on July 21st we got the word that it's not being there.
19 We are trying to get the people to go through that, but
20 they're not going.

21 PCT, that's going to be on the 23rd at
22 Tehachapi. Beth from Region 5 of the United States
23 Forest Service is coming down there. I am steering it
24 very clear to make sure that we concentrate on what are
25 the issues with the PCT because it's been all over the

1 map. So I have Doug Borner, private property owner,
2 who has the PCT coming through. He's going to go and
3 get the map and find out where are our problems so we
4 can get together with the Kern County sheriff, the
5 BLM -- unfortunately, the BLM can't be there, so I
6 don't know, Mr. Ahrens may have to find somebody else
7 to go there but the BLM has to be part of that meeting
8 so we can make sure that we resolve the issues of the
9 PCT that's going through the Kern County, Los Angeles
10 area. So I'm working with them on that, and especially
11 with Mary Beth Garrison from Kern County Supervisor Don
12 Maben.

13 The grants, I cannot overemphasize how fantastic
14 it's been working with Sixto and the OLGA team. I've
15 been around here since 1978, from the beginning working
16 here -- except George Barnes, he beats me; he started
17 in '71. I started in '78. Daphne, never have we had a
18 team like those guys. They're incredible.

19 Ocotillo Wells, what can I say about Kathy? I
20 think I'm going to try to send somebody down there and
21 work with her on trying to geocache. It is probably an
22 excellent idea for us to expand in our areas and the
23 BLM areas, and things like that, I think it will be
24 fine. Mike Ahrens can finally get people to come to
25 Needles to join in the geocaching.

1 Commissioner McMillin, you talked about the GPS
2 with Randy Bannis. We are putting in a grant for
3 moving forward with that. That is the future of the
4 way we're going on the GPS thing. Everybody is doing
5 their little thing, but we have to move out ahead of
6 these guys. They're pushing. They're taking our
7 Jawbone map, they're putting it on the website and
8 showing their routes, and they're all illegal routes.
9 It's driving me absolutely up the wall. So we're going
10 to have to get ahead of this thing. So we are working
11 with that with Randy and working with that. And I'm
12 glad to hear that Kathy is doing it in her park. So
13 maybe we can get Kathy together with Randy and see how
14 we can localize doing these things to really get it
15 going. So that's it.

16 DAVE PICKETT: Dave Pickett, District 36,
17 Motorcycle Sports Committee. Couple of issues, one,
18 the Carnegie presentation a little while ago was very,
19 very nice. The maps that were shown did not include
20 the two acquisitions properties that have not moved
21 forward on that. It's not a complaint; it's just
22 advisory. But that particular issue, I have received
23 more phone calls on that issue in the shortest period
24 of time, and I believe Don Amador will back me on this,
25 in that time frame, it was incredible, from six o'clock

1 in the morning until midnight from folks that are not
2 involved in any type of motorized recreation. They
3 were scared, really scared. But I must applaud the
4 Division for jumping on this right away, getting going
5 and working forward trying to protect the user
6 community. It's greatly appreciated.

7 I did attend the short Rubicon Trail meeting. I
8 thought I'd get there at 1:30 and be home by about
9 5:00; it went until nine o'clock. There was
10 overwhelming support for alternate three. The county
11 chose alternate two. I know there was some very
12 unhappy people that post public comment. The addition
13 about changing the size of the rocks on the Little
14 Sluice, a lot of folks were really, really upset about
15 that because they did not have an opportunity to
16 respond to that in the public comment portion of it.

17 Daphne, you said HR 69 in your legislative
18 update, the bill number had changed. Do you know that
19 number is?

20 DEPUTY DIR. GREENE: S 1328.

21 DAVE PICKETT: And the last thing is the Oceano
22 Dunes PM 10 count, we don't have to worry about that at
23 Prairie City because everything up there is PM 1
24 million. So with that, thank you very much.

25 JOHN STEWART: Good morning, Deputy Director and

1 Commissioners, John Stewart, California Association of
2 4-Wheel Drive Clubs. I've long been a proponent of the
3 land managers creating places for people to recreate
4 and having them involved in things to do. I want to
5 really thank Kathy for the Roughneck Rendezvous because
6 that proves if you provide a reason for people to go
7 out and direct them where you want them to go, they
8 will go out, they will have fun, and they will enjoy
9 it. I was unable to attend this year, but from the
10 sounds of that it was highly successful, and I do hope
11 to see it continue. That's a great, great opportunity.

12 I've also been a longtime proponent of strategic
13 plans and finally glad to see this is here. Thank you,
14 Daphne, but I'd also like to make sure that this does
15 not occupy space on a shelf. In there, there are goals
16 and objectives. I would like to see in the future at
17 the Commission meetings that these goals and objectives
18 be put out on public display, and as the various
19 projects move forward to have projects that are linked
20 to some of the goals and objectives just to show that
21 there is some accomplishment, some things being done.
22 It's just a way to display the positive aspect of what
23 is happening and show that, yes, we are making
24 progress. So thank you.

25 CHAIR WILLARD: That's it for public comments on

1 the reports.

2 I think since it's almost eleven o'clock, we
3 might as well go right into the public comment period.

4 DEPUTY DIR. GREENE: Just to reiterate, the
5 eleven o'clock is for comments not on the agenda.

6 CHAIR WILLARD: So these will be for general
7 comments that aren't specifically on our agenda.

8 **AGENDA ITEM - 11:00 a.m. Public Comment Period**

9 AMY GRANAT: I'm Amy Granat, California Off-Road
10 Vehicle Association. And why I wanted to address the
11 Commissioners today, and it's a pleasure to do so, by
12 the way, is because I've been looking into NEPA. I've
13 studied a lot about NEPA. I've taught NEPA to a
14 certain extent. We've tried to learn together, a lot
15 of OHV volunteers and myself.

16 And what I'm trying to understand is the
17 original intent behind NEPA because what I'm finding is
18 that NEPA was supposed to be a balance between all of
19 the affected environments in a forest or on a public
20 land, but that includes the humans in a human
21 environment. And I'm finding that it isn't so. I have
22 to read from my notes. So I needed to go back to the
23 beginning and research NEPA and understand why it was
24 created in the first place. And I'm going to read from
25 the purpose of NEPA. And it was enacted by

1 President Nixon on January 1st, 1970. That's all
2 boring history to a certain extent.

3 But the purpose of NEPA was to encourage
4 productive and enjoyable harmony between man and his
5 environment, and I'm finding the man part is being left
6 out. We are concerned with the birds, and the bees,
7 and the bears and the flora and fauna, and
8 understandably so, but where does the human element
9 come back into NEPA? And what NEPA is being used for,
10 it's being used as a weapon. It's being used as a
11 sword to cut out recreation, and not only motorized
12 recreation, but all forms of recreation from our public
13 lands.

14 And when I started looking at this, I was
15 actually rather surprised because NEPA does not require
16 a decisionmaker in a forest or the BLM land to
17 necessarily pick the most advantageous environmentally
18 alternative in a plan. And I always thought it did. I
19 always thought that had to be the first concern. It
20 actually doesn't. Again, it requires a balance.

21 And what I'd like to ask Commissioners to do, as
22 you listen to the Forest Service reports and as you
23 listen to the BLM reports, listen carefully to how they
24 are combining the needs of the flora and the fauna and
25 the bears and the birds and the butterflies -- of which

1 I'm a very big fan of all of those; that's the reason
2 why I go into the forest or go onto public lands is
3 because that's what I want to see -- but how it
4 combines with the needs of the families, and the
5 children, and the disabled, and the elderly, and all of
6 the other people who go for recreation opportunities.
7 And it's very important to remember that people -- I
8 have rarely seen somebody walk into a forest. No
9 matter what they want to do in a forest, they are
10 driving there somehow. They may drive with friends.
11 They may drive a Subaru. They may drive in a jeep. It
12 doesn't really matter. They may tow another vehicle to
13 use in the forest, but everybody is driving in. So
14 motorized recreation opportunities are key to working
15 together with the human in the human environment, and
16 we have to keep those.

17 And I would actually encourage more motorized
18 recreation opportunities, bring more people in the
19 forest and teach them how to protect the bears, and the
20 birds, and the butterflies, and the flora and the fauna
21 because it's only by bringing people together with that
22 environment they learn how valuable it is and they
23 learn how to protect it. Thank you. (Applause.)

24 COMMISSIONER McMILLIN: Thank you for your
25 thoughts and thinking along the same lines as I think.

1 I would encourage you to put that in a letter and send
2 it to every federal congressman and senator that you
3 know. There are a lot of industries and businesses and
4 sport groups that think just like you do. And there's
5 an ex-congressman, Richard Pombo, that thinks exactly
6 like you do. He lost his seat because of that. He's
7 running again. Get involved at the national level with
8 exactly that, because that was the intent of NEPA,
9 CEQA, and all that good stuff. Thank you.

10 ED WALDHEIM: Ed Waldheim, Friends of Jawbone.
11 Ladies and gentlemen, we're at war. We're at war on
12 all kinds of fronts because the access to our public
13 lands is continually eroded and we keep on losing it
14 for one reason or another. There are those that claim
15 it's vegetation, it's habitat for tortoises, and they
16 want to take away our five and our 50 trails that are
17 designated trails given to us by U.S. Fish and Wildlife
18 Service in a management plan. There's people now
19 telling me that, Ed, you're closing everything up. The
20 hikers can't get in, the equestrians can't get in, and
21 the bicycles can't get in. Well, they can go around
22 the peeler posts and get in if they want to.

23 There's the off-road community that just hates
24 my guts on the Thumper talks because of all of the
25 closures that we're doing. In the Rand Mountains and

1 the Jawbone and the Dove Springs area in 1996 there was
2 a management plan that designated the trails in there.
3 Nothing has been done for all of these years.

4 Now, there's a new sheriff in town, new people
5 there. We have the grants program and, by God, we are
6 going to close those trails that are off limit; they
7 don't belong to you. They are off limits. I'm doing
8 everything in our power with the Friends of Jawbone
9 with the grants money to make that happen. However,
10 there is a big void happening in here. One is the void
11 of the agencies really working and managing their
12 public lands. They're not doing that. Why did we wait
13 from 1986 until today until we came on board to do what
14 we are supposed to be doing in the first place? We
15 wouldn't have lost all of these trails for nonuse.

16 The second issue that's happening is the law
17 enforcement. We are totally underfunding the law
18 enforcement. We expect the law enforcement to do
19 million of acres of law enforcement, and we don't give
20 them the tools. It doesn't make any sense whatsoever.

21 Somewhere there has to be an equity between the
22 visitors that come to your area to visit. 30,000
23 people came to the Jawbone Dove Springs area over
24 Presidents' Weekend; 40,000 came to California City.
25 How many came up to Lassen National Forest? How many

1 people came up in that area? Why don't we have the
2 resources to manage the public and manage these things?
3 We are great at managing the open areas. Open areas,
4 it's a no brainer. It's a social issue. You drink,
5 act like an idiot and so we ask the law enforcement to
6 get you there. It's not a resource issue. The open
7 area is not a resource issue. Our experience and our
8 enjoyment of our public lands is the limited use areas.
9 That's where the public goes fishing. They go hunting.
10 They go biking. They go off-roading. That's the area
11 that we're being threatened by these crazy folks out
12 there who do whatever they want to. I call them
13 criminals. A criminal is a guy who doesn't know,
14 hasn't learned what the rules are in that particular
15 land. Well, he picks up a map. Now, I would think he
16 knows what's going on, but then he doesn't know how to
17 read; he's stupid. But I don't think he's stupid
18 because he should know how to read, he should know how
19 to comprehend. So why on earth are people going
20 illegally around our closed routes, our signed routes,
21 our fences, and our peeler posts? I can't figure out
22 for the life of me why that's happening. We've spent
23 three days of three staff people raking up all of the
24 illegal trails in the Poligon that we closed in the
25 Jawbone Dove Springs area. Three days going after the

1 people, it's like a broken window, if you don't fix it,
2 the next thing we know we will have a freeway.

3 I'm not going to let them beat me, but I need
4 you guys, and I need the Forest Service, and I need the
5 BLM to get serious with managing the public lands. We
6 lost our five and 50 temporarily, so the Center of
7 Biodiversity, says Mr. Hector Villa-Lobos, you cannot
8 control the off-roaders' off-route actions. So I put
9 up a fence. Daphne says, Ed, why would they even want
10 to ride between the fence? Well, between riding and
11 not riding, I'll take a fence. You told me why would
12 they want to ride in a corridor. You told me that one
13 time. Well, we have 100 percent compliance. There are
14 some that say, yes, there were cuts, yes, there was
15 sabotage. There was sabotage on that fence, but now we
16 have 100 percent compliance. We can work, but we need
17 your help to really get serious about managing our
18 public lands.

19 FRED WILEY: Thank you. Again, I get to follow
20 Ed. My name is Fred Wiley. I'm with the Off-Road
21 Business Association. I just wanted to take a moment
22 this morning and invite the Commission to the 15th Plus
23 Annual Day of the Off-Road Lobby Day in Sacramento put
24 on by the California League of Off-Road Voters. I
25 believe I contacted most of you last year, and you did

1 not have enough notice to get it into your schedule.
2 But it is April 26th in Sacramento this year, and we
3 would love to see all of you there. The Division has
4 participated speaking at the event, and we would
5 certainly make time for all of you and people that you
6 felt were important to help us with that day. Thank
7 you.

8 JOHN STEWART: Good morning, Deputy Director,
9 Commissioners, John Stewart, California Association of
10 4-Wheel Drive Clubs. If you look at some issues, we
11 pick up wilderness, wildlife, water, air, and energy
12 all have federal or state statutes behind them and all
13 have an impact on recreation opportunities. What we
14 have is recreation opportunity that is within an
15 increasing demand and a decreasing opportunity. I'm
16 all for protecting and making sure that we do have
17 adequate protection for wilderness, wildlife, water,
18 good air to breath, good adequate energy supplies.
19 Also, have to look very carefully at two particular
20 items in here, one is air quality and water quality.
21 These are becoming issues that are coming to the
22 forefront as we have seen with Carnegie and with other
23 places where litigation is being filed over that.

24 I'd like to encourage the Division to begin
25 taking a proactive stance to get into the game of

1 contacting the air quality districts and looking at the
2 state water boards and working with them to come up
3 with a viable monitoring program where we can start
4 collecting and maintaining the data to see exactly what
5 is happening.

6 And to that extent on the issue of water, the
7 U.S. Forest Service and the state water boards are in
8 the process now of developing what the Forest Service
9 is calling a water quality management program. I have
10 been selected as the statewide OHV representative on
11 that council being run by Region 5, and that is to look
12 at water quality from a watershed approach. And I have
13 concerns as we move forward with this of how that could
14 have a potential impact when we look at what is
15 happening with the Rubicon, with Carnegie, with other
16 places. So this is something that's very important,
17 and, like I said, I would encourage the Division to
18 begin looking at the issues of water quality seriously,
19 coming up and working with the state water boards to
20 ensure that there is a viable monitoring program and
21 that we can somehow establish a proactive stance in
22 working with the state and federal regulators so that
23 we do not lose any more recreation opportunity. Thank
24 you.

25 CHAIR WILLARD: That concludes the public

1 comment period. Next on our agenda is the BLM report.

2 **AGENDA ITEM IV(C) BLM Report**

3 MIKE AHRENS: Good morning, Mike Ahrens. I'm
4 the recreation wilderness chief in the Needles BLM
5 Field Office. You may also remember that I've been
6 asked to fill in a temporary gap, we hope, for
7 Jim Keeler as he's battling a diagnosis of cancer.

8 On that, he gave me a few little notes we
9 anticipated folks might be interested in. So as an
10 update, he's actually doing quite well. You'll find
11 him at work most days now. When he was diagnosed in
12 October with multiple myeloma, which is a form of
13 leukemia lymphoma, cancer in the blood and bone marrow,
14 he was not doing quite so well. He was having quite a
15 difficult time being up and around and what have you.
16 He's now started his treatment. He's actually
17 completed his first round of chemo and actually has
18 started his second round this week, I believe. And
19 he's in the office now most days. They are not always
20 full days, but most of the time, I'm very thankful,
21 doing most of his job than I am by a long ways. But
22 he's not really up to travelling much, so you have to
23 tolerate me for the time being. We all wish him well.
24 He's very available. If those wanted to contact him at
25 work, cell, e-mail address, very much available and

1 very much interested in keeping things addressed.

2 CHAIR WILLARD: Please tell Jim we give him our
3 best wishes and wish him well that he gets better, and
4 we miss him here, as well, too.

5 MIKE AHRENS: I certainly will.

6 Let me kind of go through the report here. I
7 guess just briefly, I know we're a little bit behind
8 schedule already so I won't belabor it, had an
9 opportunity to look at it there.

10 Starting out, we had a change in our leadership
11 in the Desert District. Steve Borchard opted to retire
12 at the end of the year, and we've gone through the
13 announcement and selection process and what have you,
14 and in two weeks we will have a new district manager,
15 Terry Raml. She is most recently in the Arizona State
16 Office working on a task force looking at two sites,
17 with the sites alternative energy pulled on all
18 previously disturbed lands. Prior to that she was the
19 district manager in the Phoenix District Office and has
20 had a host of other positions in the Forest and BLM,
21 what have you. Her press release giving some of her
22 background is included in that report.

23 Later on in the agenda we'll be talking about,
24 as we indicated here, the legislation Senator Feinstein
25 introduced in late December, this being the California

1 Desert Protection Act of 2010. This will amend the
2 previous legislation and would, in very much a summary,
3 attempt to add some additional protection both to
4 natural and cultural resources, recreation, and try to
5 streamline and implement the development of alternative
6 energy in the desert in hopes to meet California's very
7 aggressive goals to capture that form of energy. So
8 we'll be talking about that more. It's on our agenda
9 later on so I won't belabor that at this point.

10 Also along those lines, included in the report,
11 the Clear Creek plan has been out. We've had a series
12 of public meetings. Rick Cooper will be here today to
13 give you a better briefing on that. Again, I won't
14 belabor that other than to note the public comment
15 period on that plan continues to be open until
16 March 5th, next week. So we certainly encourage
17 comments and interest on that and look forward with
18 Rick working with you on that briefing today.

19 I thought since the American Recovery and
20 Reinvestment Act has garnered a lot of interest over
21 the last year or so, that it might be worth giving you
22 guys a little bit of insight on how the bureau is
23 handling that. Very much in brief, our state was given
24 \$40 million from those funds to implement 115 different
25 projects. Those projects are in essentially five

1 different categories, using those to help with the
2 development and implementation of renewable energy in
3 our state, the permitting of those processes and
4 coordination of them. We've done and are doing a lot
5 of work with abandoned mine lands. These are physical
6 safety hazards that are out in your both open areas and
7 limited lands throughout the bureau, public lands and
8 provide a hazard that folks occasionally ride into, go
9 in and become hurt, ill. So we're working very hard to
10 remediate those hazards, close off the mines
11 themselves, and gauge what we call cupolas on the shaft
12 to try to keep people from being injured by those.

13 We're doing a fair amount of habitat
14 restoration, riparian work, what have you. Working
15 with roads and bridges, actually maintain in the bureau
16 40,000 miles of roads, 850 bridges, and so we have
17 projects throughout the state trying to upgrade some of
18 those and make those both safer so they provide a
19 better service to our public. And then other
20 construction and deferred maintenance, these are
21 recreation facilities and resurfacing roads and what
22 have you, as well.

23 At the request of the several OHV interest
24 groups, we were asked to go back and look at our
25 supplemental rules for our recreation areas,

1 specifically in the Desert District. The community
2 identified that in like types of recreation areas,
3 specifically our dune areas, we had similar but
4 different rules, and it created a certain amount of
5 confusion for the end user, we could do this here but
6 not there, those types of things.

7 So we've done that and looked at those various
8 rules and have come together with a consistent package
9 that can be implemented throughout our recreation
10 areas. Those have been through an environmental
11 assessment and available for review and are now working
12 their way through the hierarchical review process in
13 our state and Washington office to go out through a
14 Federal Register notice, which will open them up into
15 the rulemaking process, actually is a fairly long
16 process, but hopefully over the summer those will come
17 in effect and become a permanent feature and something
18 that will bring some clarity and understanding as to
19 what's expected of visitors out there.

20 The Shasta-Chappie land exchange included in
21 here and hoping we might have some -- something
22 actually to update, really don't other than, as Daphne
23 pointed out, we've had a bill number change moving to
24 the Senate, but it's again slowly moving through the
25 process I suspect competing for time in an otherwise

1 busy schedule there. And it does not appear to have
2 any, as far as I can tell, great oppositions. So I
3 think it's likely to pass. It's just a matter of
4 timing for them to work on it.

5 And our OHV season in the desert is underway.
6 Just a little tidbits, we actually are recognizing a
7 downtrend this year. I think it's probably obvious,
8 there's an economic impact. Folks either -- typically
9 what happens here is folks go less often but stay
10 longer, and we are seeing that to some extent. The
11 bigger weekends are at least -- actually even, those
12 are down, but more time on either end of them. So that
13 actually makes this -- those large recreation areas,
14 Imperial Sand Dunes, Dumont Dunes areas run more
15 efficiently and Glamis typically less incidents, and
16 what have you. So while we hate to see the economic
17 times doing that to the sport, we do appreciate the
18 rest.

19 A couple of items off of the report that I just
20 wanted to highlight. I am told, and haven't seen so I
21 can't answer any questions about it, that the long
22 awaited RAMP for the Imperial Sand Dunes should be
23 turned loose here I'm guessing in three to six weeks.
24 The plan itself has approval to be printed and is
25 working on the printing right now. The Federal

1 Register announcing it also has been approved, just a
2 matter of scheduling that. So it's really come down to
3 being about printing time at this point, and that
4 document should be out. It will be out. I suspect a
5 90-day public review period. It is a draft, and then
6 we'll continue to work on that after that. So I have
7 not seen the document myself. I can't speculate on the
8 details of it at this point.

9 And then last thing I had and I placed this on
10 your tables here, came out, was introduced this week on
11 our networks anyway, the department has put together an
12 economic impact report on the impacts of the
13 department, the programs that we have. I included the
14 cover and the executive summary for you to look at. I
15 personally like to see this because I think it's a part
16 of the department that we don't often look at. We look
17 very closely at things we're doing to regulate use and
18 protect the environment, what have you, all things
19 which, of course, are important. The point that we
20 support over 1.4 million jobs in American I think
21 that's important, as well. So I was very happy to see
22 them publish this. The full report is available on the
23 Internet and encourage you to go look at that.

24 I think that's all I have here at this point to
25 report on and available for questions if there are any.

1 CHAIR WILLARD: So when we have the separate
2 business items on Clear Creek and on the Desert Act,
3 will you also be giving us additional information or
4 will you just be here to answer questions; how is that
5 going to work?

6 MIKE AHRENS: Pretty much available to answer
7 questions. I will say that in regards to Senator
8 Feinstein's legislation that, of course, is her
9 legislation. The bureau has not made a position on
10 that. We haven't been asked to by Congress. When we
11 are, that will be delivered to Congress by
12 Director Abbott or someone on his staff. So it's too
13 early for us to actually talk about the bureau's
14 positions, but I certainly will make myself available
15 to talk about business practices and some of the
16 intricacies of the bill that we see and help clarify so
17 much as I can without either stating the bureau
18 position or presuming to speak for the senator.

19 COMMISSIONER SLAVIK: I have a couple of
20 questions, Mike. How many jobs actually do you think
21 are created from the BLM standpoint? Are you
22 supplementing your staff with additional people?
23 That's one question.

24 Second question would be: Is there any OHV
25 funds used in partnership with our money for trail

1 work, et cetera?

2 MIKE AHRENS: In the first question, I don't
3 have an exact number. I probably could come up with a
4 number if the Commission was interested.

5 But, yes, by in large, we are not using those
6 funds to augment our own internal funding to pay for
7 our existing staff. By in large, those funds are being
8 used to contract external labor sources to do work on
9 projects or to bring on temporary or seasonal staff to
10 help augment work or what have you. But we've been
11 very careful and made a very concerted effort not to
12 dip into that pot of money, if you will, to just fund
13 our ongoing staff and efforts, what have you.

14 I don't know specifically. To answer the
15 question, I think there probably has been -- I know
16 we've talked about it in my office. So I'm using some
17 combination of our off-highway vehicle grants to help
18 support projects vice-versa to ultimately end up with a
19 better package on one of our projects on the trailheads
20 and AML projects that we're working on. So where we
21 can leverage one to another and get better benefit, the
22 bureau is getting pretty good at that, actually.

23 ED WALDHEIM: Mr. Chairman, may I help my buddy
24 here. El Mirage was the first project that was
25 utilized under the federal government project. Steve

1 Borchard before he retired, we inaugurated the bypass
2 road in El Mirage using the funds, our money, total our
3 money, and it was a contractor that was there who was
4 given that project. And so that was the first one that
5 the bureau had done, and that was inaugurated on
6 February the 10th.

7 CHAIR WILLARD: Commissioners, any other
8 questions for Mike?

9 U.S. Forest Service report.

10 **AGENDA ITEM IV(D) USFS Report**

11 KEATON NORQUIST: Good morning, Commissioners.
12 My name is Keaton Norquist for most you that don't know
13 me. Kathy Mick wanted to be here today, but she's
14 unfortunately in training, a previously scheduled
15 grants and agreement training. Thank you for having me
16 this morning. I'd like to update you on the things
17 that are going on in the Forest Service.

18 The big thing is travel management. We are
19 nearing the end of the route designation process.
20 Recently we completed MVUMs, motor vehicle use maps, on
21 three forests, the Inyo, the Cleveland, and the
22 San Bernardino. For those of you who don't know, the
23 MVUM is the enforcement document for travel management.

24 And we're also engaging on the Mendocino, the
25 Eldorado, and the Sequoia, we're trying to create a

1 little more user-friendly maps. And these maps,
2 they're easy to read. They're not necessarily paper.
3 They're water proof, and they don't tear as easily. So
4 these are much more user oriented and hopefully
5 helpful.

6 And, actually, I need to leave around lunchtime
7 because we're working on a grant to get some more money
8 for those user-friendly maps, and Sixto is kind of a
9 stickler about this March 1st deadline. So if anyone
10 has questions, grab me before lunch.

11 On our little handout, we have a couple of
12 website links if you want to check out the status of
13 MVUMs that are completed both in Region 5 and
14 nationwide. Those are definitely not only encouraged
15 but required for you to know when you're riding on the
16 forest system. Also, if you want to check out the
17 travel management schedule just in Region 5, you can
18 see when hearings are happening, when we're expecting
19 public comment, and public appeal periods for our
20 different decisions, and that's on the second link on
21 our handout, R5/Route Designation.

22 Since our last meeting, we have issued it looks
23 like five records of decision, which I think everyone
24 here is familiar with that. It's under NEPA. And I'm
25 pretty sure that the Sierra is included on that. And I

1 was just speaking with someone who was saying that they
2 didn't think it was, but I'll have to check. Pretty
3 sure the Sierra is out as of this week.

4 And upcoming, we are tentatively hoping for the
5 Klamath to be done in March or April, the
6 Shasta-Trinity to be done this next week or probably
7 March, the Six Rivers in March or April, the Plumas in
8 March or April, and the Tahoe in April or May. And for
9 those of that don't know, after a record of decision is
10 issued, then it opens up to a public appeal period, I
11 think it's a 45-day public appeal period, followed by a
12 45-day Forest Service internal appeal period where we
13 review the appeal. And then after that, the final
14 stage is the MVUM, where the motor vehicle use map is
15 published.

16 I think some people are aware of litigation that
17 is going on on the Eldorado National Forest. The
18 Center for Biological Diversity and the Public Lands
19 for People are each in litigation. And I think that
20 this week, actually, the judge consolidated the cases
21 and was hearing preliminary motions to dismiss. I
22 don't believe that the case is being heard on the
23 merits yet. And I haven't heard any update on it. I
24 think this already happened. I haven't heard any
25 update on how that went. We will be looking for that.

1 As we are concluding Subpart B, the route
2 designation process, we're now looking forward to
3 Subpart A, which is the transportation analysis
4 process. And under NEPA, it's not a decision. It's
5 what we call left side analysis. And it will inform
6 our forest plan revision process later on. And TAP,
7 travel analysis process, it's more of an integrated --
8 we look at ecological factors, social factors,
9 economics to transportation planning. And we're
10 looking not only at the existing system but the future
11 system of what we want. So this is why it's pretty
12 integrally related with forest plan revisions.

13 Right now we are wrapping up with our grant
14 monies on some focus studies that we've been doing. On
15 the Mendocino and Shasta-Trinity, we have a northern
16 spotted owl study that I just saw a preliminary report
17 on, and we're working with I think the University of
18 Washington on that. There's the Goshawk study on the
19 Plumas, and the vertebrate assemblage study on the
20 Lake Tahoe Basin. And those were all funded with grant
21 money and we're wrapping those up.

22 There was some question, I believe, about the
23 people have heard rumblings of the Forest Service
24 planning rule, and we are undergoing a brand new
25 planning rule. Some people might have been

1 following -- this is agency wide. There was a 2008
2 rule and a 2005 rule that each were thrown out by the
3 courts. And so we're kind of starting from scratch,
4 which is really a blank slate. And the Washington
5 office is spearheading an effort to come up with a
6 brand new planning rule that will affect all forest
7 plan revisions. And every region is holding
8 roundtables. And actually just hot off the press as of
9 today, we know that on April 6th there will be a
10 Region 5 roundtable held at three different locations.
11 The main location is going to be at the Sacramento
12 Convention Center on April 6th, Tuesday. There will be
13 satellite locations, and these are limited capacity, so
14 you have to RSVP at the San Bernardino National Forest
15 and the Shasta-Trinity National Forest in
16 San Bernardino and Redding, respectively. This is a
17 great time for everyone -- people who are concerned
18 about public access, this is a great time to have your
19 voice be heard because this is a rule that affects not
20 just Region 5 but the whole country and how we do our
21 forest planning. I think that there was about eight
22 principles that we're trying focus comments on during
23 these roundtable sessions, and that's forest
24 restoration, watershed protection, climate change,
25 sustaining local economies, improving collaboration,

1 and working across different landscapes. If you want
2 to visit, there is a great website through the
3 Washington office. If you just visit
4 www.fs.usda.gov/planningrule, it's all one word, there
5 should be information on these roundtables and also a
6 very helpful question-and-answer page.

7 With that I think that's all I have for the
8 agenda. Were there any questions from the Commission?

9 COMMISSIONER FRANKLIN: Could you please repeat
10 the areas of interest that these planning meetings are
11 going to cover?

12 KEATON NORQUIST: I can read a little more
13 in-depth. So there's substantive principles and
14 process principles for the new rule that they're trying
15 to -- I'm not an expert on this, but this is what's on
16 the handout.

17 The substantive principles are land management
18 plans can address the need for restoration and
19 conservation to enhance the resilience of ecosystems to
20 a variety of threats.

21 The second substantive principle was how plans
22 can proactively address climate change through
23 monitoring, mitigation, and adaptation, and how they
24 can allow flexibility to adapt change in conditions and
25 incorporate new information.

1 The third substantive principle would be how
2 land management plans can emphasize maintenance and
3 restoration and watershed health and how they can
4 enhance and protect America's resources.

5 The fourth principle was how plans can provide
6 for the diversity of species and wildlife habitat.

7 The fifth principle was how plans can foster
8 sustainable national forest lands and their
9 contributions to vibrant rural economies.

10 And then we'll get into the process principles
11 for the new rule. The first one is land management
12 plans, how they can involve effective and proactive
13 collaboration with the public. How the plans can
14 incorporate an all-hands approach by considering the
15 relationship between national forest lands and
16 neighboring lands. And how the plans can be based on
17 the latest planning science and principles to achieve
18 the best decisions possible.

19 So those are kind of the eight broad principles
20 we're hoping to corral people on.

21 COMMISSIONER SLAVIK: Amy Granat made an
22 impassioned plea about NEPA and its relationship in a
23 balanced manner to recreation and other human needs.
24 So I didn't hear anything like that except for maybe
25 something about communities, forest's relationship with

1 communities. Why isn't there any kind of direction to
2 recognize recreation as part of the Forest Service's
3 planning?

4 KEATON NORQUIST: That's a great question, and I
5 think that's a question that, you know, you would bring
6 up at one of these roundtables.

7 COMMISSIONER SLAVIK: Excuse me, I mean they've
8 already started from the top, and we're just at the
9 bottom of the food chain. And I know you're just a
10 messenger. But understanding that even in Washington
11 they should understand that recreation is something
12 that the public lands have a duty to fulfill.

13 KEATON NORQUIST: One thing I want to emphasize
14 in reading over this, they really try to stress the
15 point that this is a blank slate. They've kind of come
16 up with these principles, but they are by no means set
17 in stone, and this isn't how it's going to end up. But
18 these were just kind of ways they wanted to organize
19 people so that we weren't getting comments all over the
20 board.

21 But previous planning rules I know have come
22 from the top down and said this is how it's going to
23 be, comment, go ahead, and we're going to implement it
24 anyway. And they're taking a deliberate approach this
25 time to go from grassroots up. So I think that more so

1 than maybe previous times, concerns about public access
2 will be heard here. So I'd just encourage everyone who
3 is interested in it to attend.

4 CHAIR WILLARD: Give us those dates again.

5 KEATON NORQUIST: One date is on April 6th, and
6 there's a planning session in the afternoon from 1:00
7 to 5:00 p.m. and an information session in the evening
8 from 6:30 to 8:00 p.m.

9 COMMISSIONER SLAVIK: One date, three different
10 locations?

11 KEATON NORQUIST: Right. I think that it's
12 literally telecast by satellite to the locations. I'm
13 not positive on that.

14 CHAIR WILLARD: You can participate online, as
15 well?

16 KEATON NORQUIST: I think so. I'd encourage you
17 to go to the planning rule website to check that out.

18 COMMISSIONER McMILLIN: I have a question on a
19 much smaller local thing for me. I'm from San Diego
20 out by the Cleveland, and I know there's a group that
21 has received money I think through our grant process to
22 get a kids' riding training deal out there and just are
23 having a hard time with the local Cleveland Forest
24 people in getting it done. So I know you probably
25 don't know much about that, if anything. But if you

1 could just communicate with Kathy on my behalf that I'd
2 like to get an update.

3 KEATON NORQUIST: Do you know specifically what
4 project this was under?

5 COMMISSIONER McMILLIN: It's at the Corral
6 Canyon riding area. It's a kids' safety training deal
7 they want to get started, and it's just caught up in
8 bureaucracy. I know that the local people there
9 probably want it at Cleveland, but they seem to --

10 KEATON NORQUIST: Do you know specifically what
11 the hang up is?

12 COMMISSIONER McMILLIN: I don't, but I was
13 tipped off last week, and I thought I would bring it up
14 today. There might be people in the audience who know
15 more about it than I do before you leave for your lunch
16 grant writing session.

17 KEATON NORQUIST: I'd be happy to hear that.

18 COMMISSIONER McMILLIN: Kathy knows me, so she
19 can get back to me or anyone else, Jan McGarvie in
20 San Diego with the San Diego Off-Road Association. So
21 if you could check on that. A lot of big picture
22 stuff, but when we finally get the money to do
23 something --

24 KEATON NORQUIST: Does it involve a special use
25 permit, do you know?

1 COMMISSIONER McMILLIN: I don't know. Thank
2 you.

3 CHAIR WILLARD: Any other questions of the U.S.
4 Forest Service?

5 I think I just have one last comment, and that
6 is I just wanted to let the U.S. Forest Service know
7 that we are still hearing a lot of concerns over the
8 cost recovery system for events in the U.S. Forest
9 Service. This is really having a huge impact on some
10 of the users that participate in these events. And
11 some of the users, the way they look at it is they pay
12 fees to the state, and then the state gives grants,
13 funds to the U.S. Forest Service, so hopefully there is
14 some way where the U.S. Forest Service could see that
15 they are getting some monies from the users through the
16 grant program and maybe can use that to mitigate some
17 of the costs and keep the costs more reasonable.

18 KEATON NORQUIST: I was speaking with Sixto
19 about that during the last break a little bit. I
20 actually had an opportunity to speak with our cost
21 recovery experts in the region, and we would be more
22 than happy to have one of them come down and maybe give
23 a presentation to the Commission, if that's what you
24 guys would like; otherwise, we can meet with staff to
25 go over cost recovery.

1 CHAIR WILLARD: Yes, it's always good to get
2 more information. But I'd encourage you to work with
3 some of the clubs that are facing this issue and to see
4 how you can work things out better amongst yourselves
5 so that they're not getting these huge bills for events
6 they've been having for decades, in some instances, and
7 all of the sudden the cost is going astronomical for
8 them. So I welcome the further input, but at the same
9 time, I would encourage you to work with the user
10 groups, the clubs, and then also with Division, as
11 well.

12 KEATON NORQUIST: We're absolutely here. And
13 speaking with the folks in the RO about cost recovery,
14 it's very fact specific, and there's a lot of variables
15 that go into -- it's hard to compare almost an
16 identical event on the Klamath to the Angeles, you
17 know. There's a lot of different factors that go into
18 it, time of year, the workload of the staff and all
19 that kind of stuff. So the more specifics we can get,
20 that would probably be best coming from the clubs and
21 users themselves, we're absolutely here. You can go to
22 the Division or you can come straight to us. We'd love
23 to work with you guys, too.

24 COMMISSIONER SLAVIK: One more comment, Keith,
25 we're glad to have you here. I, for one, am pretty

1 disappointed that the Forest Service doesn't see fit to
2 send more higher-up individuals coming to this meeting.
3 It's been maybe two or three times we haven't seen
4 somebody from the Forest Service. Would you please
5 communicate that back?

6 KEATON NORQUIST: I know at least one problem
7 that Kathy has been having, a lot of times something
8 like a training will be scheduled months in advance or
9 she'll be gone months in advance, and one thing she
10 said sometimes the Commission will give notice of a
11 meeting like two weeks in advance. And the more
12 advanced notice we have, the much easier it is for the
13 higher ups to attend.

14 COMMISSIONER SLAVIK: I believe we fund Kathy's
15 salary in part.

16 DEPUTY DIR. GREENE: Just for clarification
17 purposes, the Commission identifies the Commission
18 meetings in January, so those are up on the web.

19 KEATON NORQUIST: So there are like two of them,
20 right? Every single date? I thought that there is
21 usually two dates; it's going to be one or the other.

22 DEPUTY DIR. GREENE: Typically we try to do a
23 tour the day before with a meeting on the second day,
24 so we did not have a tour yesterday. We can work
25 together. There shouldn't be any confusion about those

1 dates.

2 KEATON NORQUIST: Okay. I know that Kathy is
3 planning on attending the next meeting, but this grants
4 and agreement training was pretty important, and I
5 think the director wanted her to attend it, so.

6 DEPUTY DIR. GREENE: I have a question on
7 something I should know and perhaps you can help. If
8 the planning rule -- and I think where people
9 throughout the communities of interest get confused,
10 and I don't know whether or not we can help facilitate
11 some sort of graph or chart or whatever it may be, a
12 lot of people are thinking we've come off of now seven
13 years of route designation, travel management, looking
14 at the routes, now we're going into Subpart B, now
15 we're going into the planning rule. At some point how
16 do all of these different processes come together? And
17 I think not that there's ever a time where you can say,
18 all right, we're done for awhile. But I think that is
19 what the confusion is, so we're going to go to a
20 meeting in April to discuss a planning rule nationwide
21 which would address what when we've just come off of
22 all of these other processes, and I don't know whether
23 or not Subpart B now we're going to be looking at, and
24 I know there's many communities that are saying, well,
25 we've just come off of travel management, so now do we

1 anticipate routes going away again. There seems to be
2 a lot of confusion. It would be helpful that somehow
3 we can try to get some clarity.

4 KEATON NORQUIST: Yes, I can try my best and
5 talk about my understanding of it. From my
6 understanding of it, Subpart B was designating the
7 routes. That was an actual decision, similar to how
8 the forest plan is a decision. Whereas, Subpart A is
9 not a decision, it's kind of like our own internal
10 analysis. The transportation analysis process can
11 inform a plan, a forest plan, which is much more big
12 picture. Obviously, a forest plan isn't just including
13 transportation, it's including all sorts of resource
14 impacts, land acquisition plans. It's a very big
15 picture for every forest. So the route designation
16 process has been forest specific, and obviously it's
17 limiting where off-highway vehicle activity can occur.

18 The transportation analysis process, I mean a
19 lot of people will refer to, if you look at CFR 212,
20 Subpart A, it talks about minimization of the road
21 system, I believe -- I don't have it in front of me.
22 So this is supposed to be -- minimization, this is
23 something we're struggling with internally. What does
24 minimizing the road system mean? We have to consider
25 public access. We have to consider resource impacts.

1 We have to consider our budgets, what we can afford to
2 maintain.

3 So even though this isn't a decision, whatever
4 we come up to with Subpart A with the transportation
5 analysis process, that will probably inform our next
6 round of forest plan revisions which are going to, you
7 know -- we can't really start with a forest plan
8 revision until we have a planning rule.

9 So this planning rule process in April is
10 probably going to take a couple of years. Subpart A is
11 going to take a couple of years. So hopefully they'll
12 align pretty well. Once we have come up with our
13 definition of a minimum road system and how that
14 applies to every forest, then we can start working on
15 forest plan revision and that will inform that process.

16 I hope that provided some clarity. Maybe I
17 confused you more.

18 DEPUTY DIR. GREENE: I think it may be helpful.
19 Maybe we can work offline to be able to provide
20 something that brings more clarity.

21 CHAIR WILLARD: Commissioners, any other
22 questions of U.S. Forest Service? Thank you.

23 Public comment on BLM and U.S. Forest reports?

24 BRUCE BRAZIL: Bruce Brazil, California Enduro
25 Riders Association. I was kind of hoping when

1 Mike Ahrens was giving his report, he could have
2 touched on potential impacts from the wind and solar
3 farms that different companies are trying to get
4 permits on, see what those impacts would be for the OHV
5 recreation.

6 And along those similar lines, just recently
7 I've been to a little discussion on one of the internet
8 sites, one of the companies I believe they're starting
9 construction at Ocotillo, and it's a fairly large
10 project, but I couldn't find a map to see if it had any
11 relation to recreation taking place at our Ocotillo
12 Wells. So just wanted to bring that up.

13 JOHN STEWART: Good morning, Deputy Director and
14 Commissioners, John Stewart, California Association of
15 4-Wheel Drive Clubs.

16 The Forest Service is making themselves an easy
17 target. I've been asking for some time for the MVUMs
18 when they create these, let's make them so they are
19 user friendly. This discussion started with Rich
20 Farrington five, six years ago when this process
21 started. In the past years as technology has advanced,
22 it's also been tossed in the idea, let's make these
23 MVUMs available as GPS data files that people can
24 download into GPS systems. I think at the last meeting
25 there was some interest from the Forest Service. We're

1 doing that, we will have some information. I'm
2 disappointed that I did not hear an update on the
3 status of this at this meeting from the Forest Service.

4 Cost recovery, yes, there are many variables,
5 but it's also bureaucratic morass. The cost recovery
6 within the Forest Service needs to be closely looked at
7 and how it is being implemented and impacting the
8 recreation opportunity, and especially how it is being
9 applied to events, to pricing events out of existence.

10 Corral Canyon, again, here we have another
11 bureaucratic morass. Yes, it is tied up in NEPA where
12 the NEPA process has lost focus on what it is there.
13 At one point, the Cleveland Forest was very active and
14 very proactive about trying to provide for recreation
15 opportunities to actually improve the facilities there.
16 Recently there has been an apparent change in
17 connection of, oh no, we can't do that because we
18 haven't done this, and it's just stall and delay
19 tactics.

20 Subpart A, Subpart A with this evaluation, and
21 this is something I've had brief discussions with
22 Randy Moore, Region 5, plus several of the forest
23 supervisors. Subpart A is a very subjective
24 evaluation. Yes, they say it's a left-hand analysis.
25 It's supposed to be internal. But what drives the

1 Subpart A for their decisions is the current forest
2 plan.

3 With current forest plans being 15 to 20 years
4 out of date, how do they know that the existing
5 objectives in the forest plans are valid today? And
6 these are the objectives that they are making decisions
7 on or set to make decisions on for Subpart A analysis.
8 This has the potential to lead to a faulty
9 determination on what their minimum system need is when
10 they do not know what kind of a forest plan they need
11 to operate into the future.

12 So, yes, this is a very dangerous process
13 fraught with many pitfalls that could lead to a loss of
14 opportunity. And this is a point in time when the
15 demand for recreation is increasing and opportunities
16 are decreasing. So this is something that I know that
17 from the Cal 4-Wheel's perspective we are very
18 concerned about, and it is something that we look
19 forward to working with the Forest Service in order to
20 ensure that we lose no further recreation
21 opportunities. Thank you.

22 DAVE PICKETT: Dave Pickett, District 36. I'm
23 really going to try to control my tongue here.

24 Clear Creek, there has been a formal request by
25 most of the major OHV organizations in this state for

1 an extension to the comment period. It was reiterated
2 again this past Monday at a socioeconomic impact focus
3 roundtable group. The message was clear. It's a
4 complicated document. There were two members of the
5 San Bonito County Board of Supervisors that just got
6 their copy of the DEIS. Unacceptable. And they are
7 going to put a resolution to BLM supporting this
8 extension, as well as a formal resolution. I'm waiting
9 for a copy of it. They are trying to tie in Fresno and
10 the surrounding community counties to a joint county
11 submission to the BLM.

12 It appears the BLM is steadfast firm that they
13 are not going to budge on this date, even though the
14 members of the public have requested it. Therefore, on
15 behalf of my organization, District 36, we are asking
16 you, the OHV Commission, to write a support letter to
17 the BLM to extend the comment period for another
18 90 days. We'd appreciate consideration on that.

19 On the Forest Service side, what can I say,
20 Chairman Willard, you made a comment at the
21 November 4th meeting that, I am disappointed yet again
22 that the Forest Service representative is not here.
23 How much longer is this going to go on? The community
24 behind me has kicked in \$12.8 million on the travel
25 management plan, and five minutes ago we got knocked

1 down with a new Forest Service planning rule. What the
2 hell? It's getting to the point where it's almost a
3 waste of time because we get excuse after excuse after
4 excuse. We get fee increases. We've got Subpart A, B,
5 what are we going to do, all the way go to Z? Where is
6 it going to end?

7 Deputy Director Greene made a comment, where is
8 the public. What are we going to do? We paid hundreds
9 of millions of dollars in supplemental grant funding,
10 and they can't get somebody here. Dr. Farrington used
11 to be the representative for the Forest Service. He
12 was here every single time. Trust me, he got grilled
13 pretty hard, but he was here and gave explanations.
14 And I feel as a member of the public, if they're not
15 going to be our partners, let them go get a couple
16 hundred million dollars from somebody else. Thank you.

17 DON AMADOR: Thank you, Don Amador with the Blue
18 Ribbon Coalition. Welcome Commission and Division,
19 thank you for the opportunity to speak. And I'll keep
20 it short. We're on a pretty tight time schedule.

21 Just one update on the legal issue regarding the
22 Eldorado, Karen can correct me if I'm wrong, but there
23 was that hearing that was referenced for February 22 in
24 which the Blue Ribbon Coalition and partners have also
25 filed a motion to intervene, and that was supposed to

1 be heard at that time, as well. I believe that has now
2 been postponed to March 8, so hopefully we can give you
3 an update after that occurs.

4 Regarding the planning rule, Blue Ribbon, as
5 Commissioner Slavik has said, it appears they are
6 moving away from recreation into some of this other
7 stuff, and our big concern, particularly with the
8 planning rule, it seems to be focused on road
9 decommissioning and other management prescriptions
10 associated with global warming. As you know, that
11 would mean a reduction in public access. So that's one
12 of our concerns with the new planning rule, that
13 recreation will be set off to the side. So it's
14 important for everybody to be involved in that, and
15 that's where our comments are going to reflect, needs
16 to be up on the same table at the same level.

17 And then just quickly an update with Don Klusman
18 passing. I was an alternate. He was the main OHV
19 representative for Region 5's recreation stakeholder
20 group. I was an alternate, so I have now been placed
21 in his position, and we are going to have a meeting in
22 the third week of June, a date yet to be determined,
23 and we'll keep you updated on that. Thank you.

24 AMY GRANAT: First, I want to commiserate with
25 the Commissioners. I had a meeting with Region 5, the

1 Forest Service, myself, along with a representative
2 from Back Country Forest, and our consultant from
3 NOVAC, Steve Yules, and Sylvia Milligan, who I think is
4 a powerhouse and everybody knows. We were supposed to
5 have a follow-up meeting in December after the meeting
6 in November, and that was delayed until January. And
7 needless to say we have not heard yet or been invited
8 back.

9 And it seems that recreation is taking a
10 backseat to all of the other concerns, and it's evident
11 in their issues for the April 6th meeting. It's
12 evident in Subpart A, which actually was enacted
13 sometime ago. I think we can soon perhaps look for
14 consolidation between the Forest Service and National
15 Park Service because they're becoming more like parks
16 and not like forests. That was my first statement.

17 The second one has to be in the BLM and what's
18 going on in Clear Creek, and you're going to be hearing
19 a lot more about it in the afternoon. The only thing I
20 want to reiterate, along with my colleagues and
21 Dave Pickett, is the need and the necessity for an
22 extension on this. Rick Cooper heads the Hollister
23 Field Office, called this document by far the most
24 complex land management plan I have ever been involved
25 in. From the time the EPA report has surfaced and

1 there was an emergency closure on May 1st, 2008, it
2 took them until December 4th to issue their draft
3 DEIS/RMP, and they're giving us 90 days. We asked for
4 an extension because it is a very complicated document,
5 oh no, that's enough, you guys have enough time. It's
6 not only imperious, it's rude, and it's unnecessary.

7 And my point to the BLM is consider the people
8 who use the land, consider the people who have enjoyed
9 it for years and years and years. We just had the
10 financial impact meeting on the 22nd. People there are
11 losing hundreds of thousands of dollars. And literally
12 I believe it went in one ear and out the other because
13 it doesn't seem to change a thing. But those people at
14 the impact meeting had just received their documents,
15 and they had 11 days to respond if it remains the same,
16 and that's just not fair to the public. It's not only
17 the recreating public, it's all the public, it's all
18 the small businessowners. So I implore you, along with
19 Dave Pickett, in asking the BLM to be more considerate
20 of all of us who enjoy the land.

21 COMMISSIONER SLAVIK: I have a question, Amy.
22 You talked about the financial impact to people. Can
23 you explain that a little bit further?

24 AMY GRANAT: Yes, there was a socioeconomic
25 impact meeting held on the 22nd on Monday in Hollister.

1 And it was fairly well attended, but it was very clear
2 that the BLM did not do their due diligence in
3 researching the affected businesses. Some of the
4 businesses themselves took it upon themselves to go
5 around to the affected communities, to the motorcycle
6 dealers, to some of the auto repairs, to restaurants,
7 gas stations, everybody you can think of who would be
8 affected by the lack of visitation, to invite them to
9 come to the meeting. And when we questioned the BLM at
10 the meeting, we questioned Rick Cooper and said, did
11 you do this -- it wasn't myself; it was another
12 representative -- did you go to businesses and ask?
13 And he said, well, we contacted the Chamber of
14 Commence, and we felt that that was enough for to us
15 do. And it's very clear that their attitude is that
16 the public doesn't count, and that their decision is
17 going to stand.

18 And I asked at one point a representative of the
19 BLM, can you make believe that this is a public process
20 and that you're really listening to us? It would kind
21 of be nice to go along with that. You know, it is a
22 public process, and yet the public are being shut out
23 of this. At the socioeconomic meeting, I sat with the
24 mineralogists and mining community because I curious
25 about their impacts, and they also use 4-Wheel Drive

1 recreation to access their claims and their mines to
2 search for rocks and minerals. And there's a gentleman
3 that owns a mine that he hoped to hand down as an
4 inheritance for his children, and he said he's
5 literally losing \$100,000 a year. That's a lot of
6 money in these times. And yet I did not get the
7 impression that the BLM -- I know they noted it down
8 and they wrote it down, but did it actually change
9 anything? And my answer would have to be no.

10 CHAIR WILLARD: I'd like to make some comments
11 on both the BLM and the U.S. Forest Service. First of
12 all, BLM, you know, I'm keeping my powder dry for the
13 business item coming up this afternoon. That's why I
14 really didn't have any comments on it. I'm shocked
15 that we can't get an extension. I went to the public
16 hearing meeting here in San Jose about a month ago and
17 followed up with a written letter as an individual, not
18 on the commission's behalf but as an individual I did
19 those things, and stressed why there was a need for an
20 extension in the process. But it looks like for some
21 reason it's not happening, and that's a shame.

22 As far as U.S. Forest Service is concerned, this
23 seems to be an ongoing theme. We just hear more and
24 more concerns about things that are going on in the
25 U.S. Forest Service and a lot of it to do with process

1 and yet we're not getting feedback. So I'm not sure,
2 but perhaps we need, as the Commission and Division,
3 you know, to look at things like the grants, and if
4 that money really is going toward recreation and how is
5 it being spent. I don't know what else to do. I'm
6 just getting to be really frustrated in dealing with
7 U.S. Forest Service. So maybe that's something we
8 could talk about in the near future.

9 ED WALDHEIM: Ed Waldheim, Friends of Jawbone.
10 In following up with Clear Creek, I think that the
11 Deputy Director should really exercise some muscle.
12 Seven million dollars has been spent in that area. And
13 as far as leadership coming to the meetings, Mike Poole
14 used to come to these meetings, and we still have not
15 seen Randy Moore here once. He met with myself and Amy
16 one time. There was supposed to be a follow-up, never
17 occurred. Frankly, we are their customers, and they
18 treat us like -- you know, it just doesn't make any
19 sense. I'm talking about Region 5, and I'm talking
20 about the BLM office. Yes, Mike Poole has been gone.
21 Mr. Abbott is very busy, and there are other reasons.
22 But we need the decisionmakers here.

23 That's why I make it a rule, Ed Waldheim makes
24 it a rule, when I meet with the six national forests, I
25 meet with the forest supervisor and their district

1 rangers; otherwise, I won't meet. I have cancelled
2 meetings when the forest supervisor can't come.

3 Having said that, the Sequoia, meeting with the
4 forest supervisor, March 22nd; Inyo National Forest in
5 Bishop BLM, March 23rd; Los Padres, March 25th;
6 San Bernardino, March 8th; Angeles Forest, March 30th;
7 Ridgecrest BLM and Jawbone, March 17th; El Mirage and
8 BLM, March 10th; and then the PCT on March 23rd. The
9 Cleveland National Forest, I've let Jan McGarvie do,
10 that is on April 7th.

11 All these meetings I gave you, I run these
12 meetings. We advertise it. This month they will all
13 be hearings for grants. Every one of those are going
14 to be hearings for grants. So I have to give credit to
15 the forest supervisors and the district rangers who,
16 working with myself on the local basis, we're doing
17 okay, Mr. Chairman, we're doing okay.

18 It's the top guys that are giving us the
19 trouble. Those are the guys who are not supporting the
20 locals and what they need to do. Because, trust me,
21 the forest supervisors are just as frustrated as you
22 and I are with what comes out of Region 5. It's pretty
23 pathetic. Cleveland National Forest, Sixto, I think
24 they still have money sitting there that they need to
25 spend. They are not spending the money. We can't

1 figure out why they are not spending the money when the
2 grant is going to come to an end. Jan McGarvie is
3 trying her best. I have not been able to go down
4 there. It's 200 miles one way for a two-hour meeting.
5 So I've asked Jan McGarvie to fill in for me. I do the
6 same thing with OHV leadership meetings with the BLM, I
7 can do the same thing.

8 Northern California, you guys are killing us
9 with visitors coming to the Jawbone area. I can't tell
10 you how many people are coming because Clear Creek is
11 closed, Hollister is closed at ten o'clock in the
12 morning, Carnegie is on the verge, Oceano Dunes. We
13 are getting them done, trust me, we're getting them.
14 Jerry Camp had a dual sport event, two-day event out of
15 Ridgecrest, 50 percent of them were from Northern
16 California. They're all coming from Northern
17 California. All of a sudden we're being inundated with
18 people from Northern California. I don't know how to
19 deal with this because those guys -- it's about like
20 letting a kid out of the box. They see this open area.
21 They're so used to little confined areas, and they go
22 crazy. They actually go crazy. They drive wherever
23 they want to. It's crazy what's happening out there.
24 Trust me, you need to come there and see what's
25 happening there.

1 Mr. Chairman, I would love to have you schedule
2 a meeting, could be in the Mojave Hotel there, they
3 have a big conference room, and let us show what we're
4 doing, what it takes to manage the limited-use areas,
5 Really take you on a good tour and show what you we've
6 done up to this point. In four months, five months
7 with the grants, we've put in 580 carsonite posts.
8 We've put in 1300 peeler posts. We've done 300 miles
9 of trail maintenance in four to five months that the
10 Friends of Jawbone has done. I want to brag and show
11 you what it takes to manage the public lands and show
12 you what we do and how we can do that.

13 CHAIR WILLARD: Thank you. I think with that,
14 we will break for lunch.

15 DEPUTY DIR. GREENE: Just one quick comment. I
16 would say that I recognize the frustration towards the
17 Forest Service, but I would caution anybody making the
18 comment that we need somebody from the Forest Service
19 here. Keaton is here. He does represent the Forest
20 Service. He does work for the Forest Service. If what
21 you're looking for is Kathy Mick, Marlene Fiendly,
22 Angela Coleman, Randy Moore, I would need some of that
23 guidance. I certainly will make those phone calls, but
24 I would caution, take note.

25 CHAIR WILLARD: That's a good point. And our

1 apologies to Keaton, no offense meant with your ability
2 or any disregard meant to you personally, okay?

3 COMMISSIONER SLAVIK: Let me add one thing
4 before we lose that train of thought. Is there
5 somebody specifically on your staff that contacts the
6 agencies when there is a meeting and tries to do some
7 follow up to get the right people there?

8 DEPUTY DIR. GREENE: Sixto Fernandez, grants
9 manager, is scheduled to have meetings with the BLM and
10 the Forest Service. I clearly sense the frustration,
11 so I think that we will certainly make note and make
12 sure at the next meeting that we're having a dialogue
13 in between to make sure that you get some of the
14 answers that you're looking for.

15 ED WALDHEIM: Sixto, has come to every one of
16 our meetings. The staff, all these meetings I told
17 you, they are always there. So on the local level,
18 we're keyed in. These guys are totally keyed in. It's
19 in the upper level that we're having the problem.

20 CHAIR WILLARD: Thank you.

21 (Break taken from 12:00 to 1:07 p.m.)

22 **AGENDA ITEM V(A) - Business Items**

23 CHAIR WILLARD: Start off with a report from the
24 Department of Motor Vehicles on their recent
25 off-highway vehicle indicia study report.

1 DEPUTY DIR. GREENE: I am actually going to turn
2 it to Tom Bernardo.

3 OHV STAFF BERNARDO: Good afternoon, Commission,
4 Tom Bernardo, OHV Division staff, I'm here with Andrew
5 Conway from the DMV Department. Division worked in
6 conjunction with DMV on this report ready to present
7 today.

8 ANDREW CONWAY: Good afternoon, thank you for
9 having me here. My name is Andrew Conway. I'm chief
10 of the Registration Policy Automation Branch of the
11 Department of Motor Vehicles.

12 The department initiated this study as a result
13 of Senate Bill 742, which was chaptered in 2007.
14 Basically, the legislation directed us to study the
15 off-highway vehicle identification materials and gave
16 us some directives, I think, five areas that they asked
17 us to particularly pay attention to in the study. My
18 staff conducted the study. They submitted a report to
19 the Legislature this summer through the Business
20 Transportation Housing Agency.

21 The bill was chaptered in 2007. It amended the
22 Vehicle Code. My understanding from Tom, I'm not an
23 absolute expert on the off-highway vehicle program as
24 it's administered through DPR, but my understanding is
25 that it comes up for reauthorization, and this is part

1 of that process. The first thing it did was it amended
2 38165 of the Vehicle Code to make sure that the
3 identification numbers that we put on there, kind of
4 like the license plate number of the vehicle, is the
5 most prominent feature of the device. I guess there
6 was some concern in the past, and I think it was a
7 reasonable concern, that all of the information that we
8 had on an off-highway vehicle decal, kind of was all
9 the same size, kind of all looked the same, you
10 couldn't tell what was doing what on the decal.

11 The other thing it did was it required us to
12 make recommendations on improvements by July 1st, 2009.
13 As I said, my staff prepared that report and delivered
14 it this summer on time. It asked us to work with
15 vehicle manufacturers to evaluate feasibility of
16 different changes in the program.

17 The off-highway vehicle statute, just to be kind
18 of clear about the parameters under which we produced
19 materials and the guidelines that were given us to by
20 the Legislature, 38160 of the vehicle requires that our
21 devices be attached in such a manner as not to endanger
22 the passengers or operators of off-highway vehicles.
23 This is a very important concern because they don't
24 travel down smooth pieces of flat asphalt the way
25 vehicles do on highways. They jostle about. They

1 move. They have different kinds of things that happen
2 to the operator of the vehicle. You're moving about on
3 the vehicle. So they don't want our indicia to
4 represent any kind of threat to a person as a result of
5 being on the vehicle.

6 Then there's also 38170 which defines the
7 placement on different types of vehicles, where the
8 materials have to appear. And we've had a little
9 diagram for you on the slide here with ATVs on the left
10 rear quadrant, snowmobiles on the left tunnel or on
11 back, sand rails have to have it sort of visible from
12 the rear mounted on the metal portion of the frame,
13 motorcycles on the left fork visible from the left.
14 Basically that's how they have to be applied.

15 And as I said before, the report had to cover
16 certain areas, we had to make findings on certain
17 areas. The first area we had to do the findings on was
18 the feasibility of the use of multiple identification
19 stickers for each vehicle so that law enforcement
20 could -- kind of like when you have a vehicle with a
21 front and rear license plate, whatever direction the
22 vehicle is traveling from you could see things.

23 We found a number of challenges with this kind
24 of issue. Number one, would be that multiple stickers
25 would require more than one mounting surface. And with

1 different types of off-highway vehicles, it's difficult
2 to make sure that you'll have multiple locations with
3 mounting areas that are suitable for the types of
4 decals that we issue. And that could become
5 problematic because it could result in inventory which
6 isn't practical for use. It could result in materials
7 that go unused. People could just pocket something
8 that they have on one vehicle. They could put the same
9 material on more than one vehicle, and that's
10 problematic for us.

11 They also have limited benefits because most
12 inspections in most of the interaction with the vehicle
13 where you need to record the license plate information
14 or the identification information occurs when a vehicle
15 is stationary. When it comes through the gate at the
16 entrance to a park, when somebody is engaging somebody
17 over a violation or just communicating with them,
18 vehicles are stationary most of the time when this
19 material is read. So there is limited benefit to
20 having it on multiple parts of the vehicle.

21 The last thing that we try to be mindful of is
22 would it raise the program costs. The program costs
23 that are associated with off-highway vehicle are
24 something we would sort of have to throw to the
25 Legislature to change. And we're very reluctant to ask

1 for changes just because we want to say the cost of
2 operating the program is getting higher, so we want to
3 pass that one. We try in my department, which raises
4 billions of dollars for a number of different accounts,
5 for a number of different programs, we try to be
6 mindful of every dollar that we take for our operation,
7 that we take for our materials. So we are reluctant to
8 do things that raise the cost of the DMV to DPR without
9 having some real benefit for it. So overall I think on
10 this first finding, we didn't really find a lot of
11 benefit to having multiple locations.

12 Report finding area number two was the use of
13 large print to identify numbers or letters. Basically,
14 this is to provide greater visibility of our numbers to
15 law enforcement or anybody else who needs to read them.
16 Found a number of challenges to this. One is that the
17 size of what we can do for the visibility of numbers on
18 something is limited by the size of the vehicles.
19 Because 90 percent of these vehicles essentially are
20 dirt bikes and ATVs, there are limited surfaces with
21 which we can work to make larger numbers. For example,
22 where you're required to wrap the decal around the
23 forks of an off-highway bike, the larger those numbers
24 are, then the numbers start wrapping around, and you
25 can't even read them, they're difficult to read even

1 when the vehicle is stationary. Larger indicia are
2 more difficult to place in other parts of the vehicle
3 and on different kinds of vehicles. You don't want to
4 have issues associated with the manufacturing of these
5 vehicles just related to our indicia. We don't want to
6 go to the manufacturers and ask them to change their
7 designs or create other areas of their design.

8 Sort of an example that's comparable to that
9 would be that all dealers in California are required to
10 provide you a space on the front of your automobile to
11 mount your license plate. For Corvettes and other
12 different vehicles that enthusiasts have, it's very
13 difficult to do that in an attractive way. People are
14 nodding their heads; you get the idea. Once you start
15 interfering with them in this way of like we just want
16 to make you change the design of your vehicle so that
17 our license plate looks better on it, that raises the
18 cost of manufacturing, that raises costs for consumers
19 in this area, and in general it doesn't create a lot of
20 popularity for our indicia. We want people to embrace
21 our programs. We want people to accept our programs.
22 We want to work cooperatively with the consumers and
23 the industry, and we find problems when we try to
24 impose these kinds of limits on them.

25 The last thing it does is when a vehicle is in

1 motion, even larger numbers prove problematic. I was
2 talking to Tom and a couple of other people before the
3 meeting just now. The example I gave is on the
4 highway, on the road when people are involved in auto
5 accidents, when people are involved in crimes, DMV
6 license plates, the full-size plates -- I even got a
7 sample here, these things don't get read by witnesses.
8 And when these aren't being read by witnesses in the
9 most friendly environments that you're going to find,
10 flat surfaces, wide open, well lit highways and
11 roadways, when you put yourself in the OHV environment,
12 uneven terrain, bouncing around, debris, brush,
13 camouflage, you really start to see that it's really
14 not the indicia that's the problem. It's really the
15 environment. And the environment is just not conducive
16 sometimes to good eyewitness identification. And
17 really that's more of the problem than the indicia
18 itself, and that was our finding in this area.

19 Number three, various identifying devices such
20 as plates and stickers, can we come up with different
21 kinds of materials. Again, that would make it easier
22 for law enforcement to read things, OHVs can be issued
23 with permanent plates like car are and get the little
24 sticker in the corner every couple of years,
25 standardizing the program could leverage the existing

1 equipment that we use at PIA to make those license
2 plates, and permanent numbers could produce
3 substitutions to simplify computer records.

4 That's one of the other things that we saw. If
5 you had the numbers more stationary, if you had more
6 permanent indicia, there would be some -- I know the
7 license plate number to my car because it hasn't
8 changed in 11 years. Indicia on off-highway vehicles,
9 they change more often perhaps.

10 The challenges with this, though, are really
11 problematic. Number one is that the material would be
12 dangerous. When you think about putting a metal plate
13 on an off-highway vehicle, you start thinking about a
14 vehicle that somebody is dropping. You think about
15 something somebody is falling off of, they're moving
16 about inside of. Then we get very concerned that the
17 materials we produce, unless they are soft and
18 flexible, are actually a danger, and we don't want
19 that. And soft flexible materials are prone to
20 breakage and they are prone to damage, so they're
21 really not conducive.

22 The off-highway environment is going to have
23 mud, dirt, and debris. Embossed license plates, that's
24 just a mess. The stuff that we have now, things stick
25 to it. If you try to wipe it off, you're just wiping

1 the raised surface, and you're not getting anything
2 clean and legible. Because the plates would be
3 smaller, most likely like our motorcycle plates, the
4 debris would be a big problem with them.

5 OHV also aren't always equipped with the kind of
6 surfaces you can mount a license plate on. The entire
7 fender assembly, for example, on a dirt bike is very
8 different than on a Harley-Davidson or a Honda Gold
9 Wing or some kind of standard motorcycle on the
10 roadway. So, again, as we said before, you start
11 talking about making changes when dealers sell these
12 vehicles, when manufacturers build them, we find that
13 problematic.

14 And, lastly, that these things are far more
15 complicated in terms of price. A license plate costs
16 us two or three dollars to manufacturer. The little
17 sticker that we produce every year for license plates
18 costs us seven cents. I don't have the exact cost of
19 the decal for the OHV program, but it's closer to the
20 seven cents than the two or three dollars because it's
21 very similar material. So you're talking about a 10,
22 20, 30-fold increase in the cost of materials. When
23 you look at a million vehicles that are being
24 processed, that's real money.

25 Next requirement was finding number four, which

1 was to require license plate or device alternatives.
2 Some larger OHVs could accommodate a traditional
3 license plate. We could probably put them on sand
4 rails. We could probably put them on some larger ATVs
5 and snowmobiles, and they would aid law enforcement in
6 identifying vehicles.

7 The biggest challenge for this is from an
8 information technology standpoint, and that is we have
9 the entire OHV program categorized into one type on our
10 database, historically. We have off-highway vehicles
11 as a database category, which means they get one type
12 of indicia, they get one type of license plate, one
13 type of configuration in our computers.

14 Separating them out into different categories,
15 regardless of how big that population is in relation to
16 whether or not it's justified in cost, because very
17 difficult from a technology standpoint, and it becomes
18 much more difficult to manage. I would compare it from
19 juggling three balls to juggling five. You would
20 wonder what's the benefit. If you're not getting paid
21 any more as a juggler for juggling five, you're only
22 going to juggle three. From our standpoint, it would
23 be that much more complex and that much more
24 complicated to operate the program and for consumers to
25 manage within the program.

1 The other problem is you get very little benefit
2 from a cost benefit standpoint with the Department of
3 Motor Vehicles. We have 50 million vehicles in our
4 database. We have 30 million on the roadway. We have
5 one million off-highway vehicles. We don't want the
6 off-highway program to start to approach the cost and
7 the complexity of our other programs. Its size doesn't
8 justify that as a state program.

9 And the last thing, the different types of
10 plates we would issue if we were giving you like this
11 for a sand rail, and this for a motorcycle become
12 confusing and complicated for the law enforcement. If
13 the different types had different fees associated with
14 them, there would be consumer disincentives to
15 cooperate with putting certain types of materials on
16 their vehicles.

17 So really there is sort of a KISS principle.
18 Keep it simple, smart people. The idea is just have
19 one type of indicia for these million vehicles that's
20 transferrable, from an IT standpoint is one program.
21 It makes a lot of sense the way we do it today, which
22 is probably why we've done it that way for 30 or
23 40 years, not because we're resistant to change but
24 because it works.

25 Number five, I believe this is the last one and

1 that was to create a unique number for non-resident
2 permits. We could improve the enforcement and increase
3 revenue in the non-resident permit program. We could
4 enhance the method for capturing non-resident park
5 usage, get a better understanding of the impact of the
6 program overall, and we could reduce the trafficking of
7 stolen OHVs because presumably they have no indicia,
8 right, Tom? And they would have indicia.

9 There are a couple of challenges with this
10 program. Number one, is currently in the program we
11 are issuing about 30,000 of these permits annually.
12 They are not reported on a database, which means you're
13 taking a program which is really, really off the grid,
14 so to speak, and putting it on the grid. That's going
15 to have its own new associated costs with it. It's not
16 just about indicia, but now it's about taking a program
17 and putting it into your database, putting it into your
18 system.

19 The second is that permits for visitors are only
20 required for people that don't have OHV identification
21 with them. It's a reciprocity thing. If you're from a
22 state where there is an OHV identification program, you
23 don't need this stuff. If you come from someplace
24 where they is nothing on your bike because your state
25 doesn't have it, that's when you need it. It's kind of

1 a more complicated program. It's really better to
2 leave this at the consumer level where it is now where
3 you're buying them over the counter.

4 Arizona recently started an OHV identification
5 program.

6 OHV STAFF BERNARDO: Arizona now has an OHV
7 program and an OHV sticker, and it went into effect
8 January 1st of last year. So of those 30,000
9 non-resident permits, the majority of those that we
10 sold in the past went to Arizona, all of the people
11 coming from Arizona to recreate in the basically
12 Southern California deserts.

13 The other portion comes from Nevada residents
14 because Oregon has a program, so they don't buy the
15 non-resident permits when they come here. And the
16 Legislature in Nevada recently passed an OHV bill for
17 an OHV program. So if it is funded -- that's a big if
18 at this point, they're looking for the money to fund
19 it. If and when it is funded and it goes into effect,
20 it's supposed to go into effect in the next couple of
21 years, that would cut down more on the non-resident
22 permits. So at that point it would only be people
23 coming from far away to visit California that would buy
24 these permits. So I see our non-resident permits sales
25 dropping rapidly.

1 ANDREW CONWAY: So essentially the cost benefit
2 analysis that may have driven this going into the
3 legislation in 2007 has effectively been turned on its
4 head now. And we're talking about a program that may
5 in a couple of years just be miniscule compared to what
6 it is right now, or what it was in 2007. And that
7 really makes me wonder, do you want to take something
8 that's sort of sold under the counter, that's not
9 really tracked that carefully, and move it onto the
10 grid, move it into the database, and make it much more
11 expensive and formidable.

12 And when people encounter that when they come
13 here, because they're not going to encounter it when
14 they're planning to come here, they'll encounter it
15 when they see it here, they'll just be resistant to it.
16 They won't see the state as friendly. They won't see
17 the state as receptive to their visit and to their
18 money and to their tourism, and we really don't want
19 that.

20 These programs are constantly evaluated. I
21 think for the purposes of the study, we found no change
22 here. But I wouldn't mind as a department revisiting
23 this with DPR in a couple of years when we see these
24 changes in Arizona and Nevada flushed out. But I think
25 at that time we're going to see a huge drop in the

1 number of these permits and wonder why are we
2 bothering.

3 Non-resident permits are already numbered for
4 control purposes. Combining records with traditional
5 records require interface at point of issuance. That's
6 what I mean by moving it onto the grid. Right now it's
7 sold kind of like a fishing license over the counter.
8 If you want to create some kind of interface with the
9 retailer that is selling these on contract suddenly
10 having to input that information into a Department of
11 Motor Vehicle website or database, you're just adding a
12 lot of cost to the program.

13 You're beginning to wonder what is the benefit
14 of tracking that information. Purchasers are not at
15 present required to show identification. This might be
16 the biggest thing about it here. At the end of the
17 day, what are you going to know about the people you
18 record information about? Are you creating a whole
19 identification requirement on them? Are we going to
20 need driver's licenses? Are we going to record that
21 information? If we're not, then why are we recording
22 information if it's ultimately probably not going to
23 have not much value at the end, if it's ultimately not
24 going to establish much identity at the end, why take
25 the time?

1 We did make some changes. We're not completely
2 resistant to change, that's not the purpose of me
3 making this report. We have made some changes to our
4 material. You can see above there the expiration date,
5 the expiration year, and the sticker plate serial
6 number has been revised. They're much more prominent
7 now. We've added a contrasting color. They are now
8 four color as opposed to three color. That makes the
9 information from a visual standpoint pop a little bit
10 more. It makes it easier for us to identify. And the
11 top band, kind of like the sticker on your car, is
12 going to change every year, so that would be a quick
13 visible cue to law enforcement whether or not a vehicle
14 is currently compliant.

15 The last item is something that we're currently
16 working with PIA to implement. We had some difficulty
17 consistently doing this on a manufacturing level and
18 that is to create spaces in there, three numbers and
19 three numbers or three digits, three digits. That's
20 easier for law enforcement to rattle off and remember
21 and even for eyewitnesses at the scene of a crime.
22 That's kind of why license plates are designed the way
23 they are, too, out at the street. If you can only
24 remember half of it, we can narrow it down to one out
25 of 999. It's easier to remember six pieces of

1 information if you remember three and three. Kind of
2 like a phone number. It's very weird to you when
3 somebody doesn't read a phone number with three numbers
4 and then four numbers, it sounds strange to your head.
5 That's because that patterned information is easier to
6 remember. So we hope by the next renewal cycle to
7 actually have that completely implemented on every
8 plate.

9 So the conclusions of our report were that there
10 should be no changes in the program. It's absolutely
11 flawless and perfect the way it is. Actually, what we
12 did find is that the materials that we have are
13 designed the way they are for a reason, and that they
14 are effective at what they're doing. There are things
15 we would like them to do better. We do wish it was
16 easier to read things in the field. But there are
17 practical safety and financial considerations
18 associated with that that just don't justify the
19 change.

20 We also found that the red green distinction
21 which kind of led to the four-color plate has been a
22 very effective tool in recognizing immediately whether
23 people are operating vehicles out of compliance. DPR
24 is constantly giving us feedback on their field
25 experience with our indicia. When they encounter new

1 vehicles or new types of vehicles are designed, they
2 look at new placement of the material and how things
3 might be tweaked. And we have a regular staff
4 interaction. We're six blocks from each other, so we
5 keep regular contact.

6 And the last thing that we do is it's not part
7 of the report, but it's something that I think is
8 important to know, and I don't think it was probably
9 expressed enough by my predecessors at the time this
10 report was required, is that part of our annual review
11 process, we have four teams that are involved. We have
12 myself, the State Parks people, the OHV area, we also
13 have what we call FAIS, which is our forms and
14 accountable item section, and then the fourth partner
15 in this is PIA, Prison Industries, who actually makes
16 our materials. All four of these stakeholder areas
17 gets together every time we reorder material, and we
18 assess whether or not any of us want to make any
19 changes, whether or not any of us have encountered any
20 new information that would lead to a design change.
21 It's a very collaborative process. You have seen some
22 evolution in it just from those four stakeholders.

23 So at the end of the day, our report recommended
24 no changes now, but we wanted to let people know it's
25 not because we're resistant to change. It's not

1 because we're tone deaf. It's because we don't see any
2 changes now, and we have been making changes as we go
3 along involving all the stakeholders as we can.

4 And that's essentially the report. Does anyone
5 have any questions?

6 CHAIR WILLARD: Commissioners, I think what I
7 would like to do is see if you have questions. And
8 then if you don't, we'll open it up to public comment.

9 COMMISSIONER LUEDER: I'd just like to say that
10 I think the new stickers are much more readable, and I
11 think they look great. So I think you guys do a good
12 job.

13 CHAIR WILLARD: Thank you. We're going to get
14 comments from the public, and then we may have more
15 discussion at the end.

16 DAVE PICKETT: Dave Pickett, District 36,
17 Motorcycle Sports Committee.

18 I am so pleased that common sense prevailed on
19 this issue. The local LEOs that I have dealt with up
20 and down the state over a long period of time,
21 especially at larger permitted special events, are not
22 having an issue with this at all. And I know I was
23 involved maybe three or four years ago where there was
24 a bill floating around by an assemblyman, and we had
25 meetings with him and discussed the safety issues the

1 DMV representative discussed about non-flexible license
2 plates and the potential for serious injuries,
3 especially to youth falling off the back of the vehicle
4 and catching the very sharp edge that they'll die.

5 It's not the first time this issue has been
6 popped up, and that's why I believe it was in the
7 mid '90s that the location changed from the rear most
8 position of the vehicle to the left fork leg. That was
9 received well by the OHV community, the law
10 enforcement, especially on the motorcycles, because
11 they look on one side, look for the date, which was
12 quite clear, flip the handlebars, check the VIN number,
13 there was the secondary follow up, end of thing, have a
14 nice day. So this was addressed, taken care of. I'm
15 pleased with the way it came out. Thank you.

16 ED WALDHEIM: Ed Waldheim, Friends of Jawbone,
17 Friends of El Mirage. I'm wondering, you often watch
18 in the Olympics, haven't you, when they come down to
19 ski when you can't even see anything, what do you see
20 on these skiers, they've got a bib, they've got a
21 number. Have we thought about putting a bib on
22 everybody?

23 COMMISSIONER SLAVIK: Let's not go there.

24 ED WALDHEIM: That's thinking outside of the
25 box. This whole issue comes down to law enforcement,

1 guys. You can put the numbers as much as you want to,
2 but we have to emphasize getting the law enforcement
3 out there to do the job. We've got to give them the
4 resources to do the job.

5 Having said that, I would like to also see what
6 can we do, Ms. Greene and the Commission, to get
7 inserts into the registration that very clearly state
8 the rules of engagement. What is limited use? Means
9 you have to stay on the trail. What is an open area?
10 Means you can go do whatever thing you want to without
11 touching the resources.

12 But, folks, limited use is the way the world is
13 going. Designated trails is the way of life with the
14 BLM and the Forest Service. There is no ifs; there is
15 no buts. As soon as we get that through to those guys
16 who are not reading, writing, comprehending, or taking
17 the information, the better off we are and will make
18 life easier for the law enforcement.

19 So I agree, yes, I'm glad they didn't change
20 much, works good. The bib is a nice added touch. You
21 may want to put that in a notice, if you keep going off
22 trail, we will put a bib on you and register you.
23 Thank you.

24 KAREN SCHAMBACH: Good afternoon, Karen
25 Schambach, Public Employees For Environmental

1 Responsibility.

2 I have some complaints about the way this whole
3 report was handled. Until I contacted the Division to
4 see the status of this report a few months ago, I
5 hadn't heard a word about it and found out that the
6 study and report had been delivered to the Legislature
7 last July. As far as I know, it's never come before
8 this Commission. There was never any invitation for
9 public comment on it. Unlike every other report that
10 comes out of this Division, which is drafted and heard
11 public comment on, and redrafted, this was just done,
12 delivered, and until I asked about it, there wasn't a
13 word about it.

14 I find the process just showed a remarkable
15 disregard for public comment, especially considering
16 that the request in this legislation came about as part
17 of SB 742. There were residents, citizens and law
18 enforcement people who had issues with the difficulty
19 of identifying law breakers. The whole purpose of this
20 was to identify law breakers. And basically, and I
21 assume the Division reviewed this report since it was a
22 coordinated effort, and just decided, well, it would
23 cost too much, it was too inconvenient, we didn't want
24 it put out the manufacturers, and so we're just going
25 to -- you know, it worked for 30 years.

1 The fact is it's not worked for 30 years, which
2 is why the request in SB 742. During the negotiations
3 originally, we wanted the legislation to include, I
4 guess, identification that people could see. And what
5 we got instead was a study; however, the study said to
6 recommend ways to improve OHV identification. This
7 doesn't do it. It just defends the status quo, which
8 isn't working. Now, dual sports have plates. Why
9 isn't that a safety issue? When people are in enduros,
10 their bikes have a big placard in front. There are a
11 lot of different things that could have been considered
12 but weren't.

13 I think it was because the public who was very
14 interested in this issue was totally shut of this
15 process. I find it really, really distressing. And
16 you know, one of the things that you've heard me say
17 over and over again is getting the law breakers, you
18 know, off the publicly lands is going to be the best
19 thing you can do for this sport. Instead this Division
20 just seems to just find ways to allow that to continue.
21 I don't see any interest in getting law breakers out.

22 The idea that -- a lot of this came out of folks
23 in the desert. I've taken pictures of people riding
24 where they weren't supposed to. If they would have had
25 a plate, then they would have been captured with the

1 plate. The people were mad. You can't identify them.
2 Bikes all look alike. The sticker is on the fork where
3 nobody can see it. This isn't working. And I'm just
4 really sorry that people who might have been able to
5 inform this a little more and come up with some
6 out-of-the-box thinking weren't given that opportunity.
7 Thank you.

8 CHAIR WILLARD: Maybe we can discuss things a
9 little bit.

10 I'd like to address some of the last speaker's
11 comments. I want to make sure there is no
12 misunderstanding that this Commission had nothing to do
13 with the report, and I don't even think the Division
14 was a part of the report. The report was mandated by
15 the Legislature through Senate Bill 742, so it was
16 really between the Legislature and the DMV. Those are
17 the two parties that were working on this report or had
18 part of the report. Division was a cooperating party
19 in supplying information. Commission, we never really
20 had anything to do with it. So I just want to make
21 sure that everybody understands that.

22 Mr. Waldheim made an interesting comment that
23 I'd like to sort of second the idea of perhaps using
24 the sticker program as another method of getting
25 information in front of people. So when the stickers

1 come in the mail, why can't there be a little one-page
2 information sheet going through the various aspects of
3 where you can ride, and what's legal, and what's not?
4 Or if you pick one up, like I just did for my
5 snowmobiles a couple of weeks ago at the DMV, when you
6 go there to pick them up, maybe they can hand something
7 out to you. That's just an idea that I had.

8 Folks have any other comments on this?

9 COMMISSIONER VAN VELSOR: I guess I have a
10 couple of questions. I don't have a good history with
11 the process. So let me understand, at this point we
12 have the report. Now where do we go from here?

13 ANDREW CONWAY: I can probably answer that. The
14 report was required by the Legislature on the
15 Department of Motor Vehicles. It required the
16 Department of Motor Vehicles to conduct this study,
17 write the report, and submit the report to them.

18 So at this point we're done. It was why I kind
19 of on that last slide wanted to give people the idea,
20 yes, we're done, but there is a process. And we don't
21 say, okay, we looked at changes through this report, we
22 didn't have any specific recommendations we want to
23 implement, and we'll never look at implementation of
24 changes again.

25 We have an ongoing collaborative process every

1 time we re-up the program. It's a biennial program,
2 the sticker is good for two years. Every time we
3 reorder materials from Prison Industries, we look at
4 the material, contact DPR, contact our FAIS folks. We
5 ask PIA if they have any new whiz bang approaches that
6 they're implementing somewhere. I actually have a
7 sample I can show you up close, sort of like the
8 holograms that are being incorporated into the
9 materials. We make those kinds of changes on the fly,
10 basically.

11 So I guess in a roundabout way, that's where we
12 go from here. The report is over. The report is done.
13 We haven't received any comment back from the
14 Legislature over the last six, seven months. So the
15 next step is just business as usual. We reorder
16 materials. We make changes as we see fit or as they
17 get recommended.

18 Some of those changes we do accept public
19 comment. I'm happy to leave my card. Anyone can
20 suggest to me from Tom, from Daphne, to the janitor,
21 people on the street, I get letters every day, people
22 make suggestions. The insert, we have a number of
23 programs that people make these kinds of suggestions,
24 and we do them, we make them, they are reality.

25 The other day somebody asked me how can we get

1 more people to join the Purple Heart Association, boom,
2 within two days we had these beautiful purple inserts
3 that are going into every Purple Heart license plate
4 that's issued asking people to join the program.

5 Somebody in the public picked up the phone, called in,
6 I thought it was a great idea, we're already doing it.
7 This program doesn't have to operate any differently.

8 COMMISSIONER VAN VELSOR: I guess one of the
9 concerns I'm hearing is that there wasn't an
10 opportunity for public involvement or public comment.
11 Is that standard operating procedure around this type
12 of thing or is there an opportunity for the public?

13 ANDREW CONWAY: Well, the Department of Motor
14 Vehicles operates differently than State Parks. We are
15 part of the business transportation housing agency. We
16 are a department that isn't subject to the review of a
17 board or commission. So when we're directed by the
18 Legislature to do something, we generally just do that.
19 If they specifically indicate that we need to receive
20 public comment, we do. But generally, no.

21 The literal interpretation of this -- and I have
22 to apologize, in 2007 I wasn't chief of registration
23 and operations, so I'm being a little bit presumptive.
24 But in general, we take the legislation literally. It
25 says for the DMV to conduct a study. The DMV conducts

1 that study. It asks us to cooperate with OHV people.
2 We cooperate with them. But it didn't spell out a
3 public comment, didn't spell out a hearing or review
4 process to be followed, so one was not implemented in
5 conducting this study. It was done by staff. They
6 contacted experts. But, no, we didn't reach out to the
7 public on this. And I admit that, and I can understand
8 why that's perceived negatively by people. I
9 appreciate that criticism.

10 OHV STAFF BERNARDO: It was brought up why it
11 took so long to bring the report to the Commission.
12 The report was submitted to the Legislature on time,
13 last July 1st, and DMV has been trying to get to a
14 Commission meeting. But because of the budget
15 restraints and the travel restrictions, they could not
16 travel to Southern California to present this report.
17 So today is the first Northern California meeting we've
18 had where they could drive to the meeting. So that's
19 why it's February and not last year.

20 DEPUTY DIR. GREENE: If I could just actually
21 clarify that. We actually made announcements at each
22 Commission meeting about this study. We announced when
23 it came out. We announced the fact that DMV could not
24 be there due to budget situations. So we tried to keep
25 you in touch. And I'm sorry if we failed in that, but

1 I do recall specifically addressing you and letting you
2 know that the DMV study was complete. So I don't know,
3 Commissioner, if you want to make a comment on that.

4 COMMISSIONER SLAVIK: I just wanted to say this
5 is not the first time I've heard this information. So
6 it was presented in a formal manner, but we've heard
7 this at least on two occasions before this.

8 DEPUTY DIR. GREENE: I will say that my
9 commitment and this Division's commitment to try and
10 reduce illegal OHV activity in the desert has never
11 wavered. I think that we can stand on the efforts we
12 have made.

13 And I will simply remind you of our law
14 enforcement team, John Pelonio who spoke earlier today,
15 and the efforts that we have made, I believe, now on
16 five occasions to send our teams down into the deserts.
17 Sometimes we don't make a big production about it
18 because we didn't want people to know that we're
19 coming. Because we want to make sure that we're
20 addressing those concerns. When people have concerns,
21 we try to address them.

22 I think if we go back to 742, I recall being in
23 some of those meetings and, yes, having some concerns
24 and even myself suggesting why couldn't you put it on
25 the fuel tank, why couldn't you put a sticker on the

1 front? The reality is, as I became more educated, that
2 you do have issues of where. And so that is how do we
3 have something where we can ensure that those members
4 of the public who have a green or red sticker are going
5 to have them.

6 For many, many years there was a problem in the
7 state that people weren't getting those stickers or so
8 the data was telling us. And so that's why we did the
9 new fuel tax study and reevaluated and got that
10 information. If there are issues that we can assist
11 with, we certainly are willing and wanting to do so.

12 So I'm troubled, by saying that we didn't have
13 an interest or we tried to somehow not take this
14 seriously. I think where we had a fine line to balance
15 is that on some level we're damned if we do and damned
16 if we don't. We tried on some level. As you said,
17 this is the Legislature saying DMV to do it, and that
18 is DMV's responsibility.

19 If it had been DPR, and I am, again, always
20 going to look at more efficient ways of what we can do,
21 but I didn't want to start sniffing into DMV's
22 business, nor did I feel it was our responsibility. I
23 recognize the legislation specifically says that we
24 will work and work with manufacturers. And so as we
25 did that, to try to help facilitate DMV with contacts

1 or who they could reference, we tried to make those
2 efforts. But this was not by any stretch of the
3 imagination our lack of desire to address issues of
4 illegal riding or trespass going on throughout the
5 state. Nobody wants that addressed more than the
6 Division.

7 COMMISSIONER VAN VELSOR: So I just have one
8 follow up to that for you. Is there going to be an
9 evaluation of the current plate as to the effectiveness
10 from the standpoint of enforcement?

11 ANDREW CONWAY: Yes, we're going to be
12 reordering for 2013, and we'll meet with State Parks
13 personnel and go over possible changes. We're already
14 working -- actually discussed the latest proof with my
15 staff yesterday, and that was the separation of the
16 letters into two areas.

17 But in terms of the size of the numbers, in
18 terms of the physical material itself in the next
19 portion, it's not scheduled to change. We're just
20 tweaking that. We're just making that one design tweak
21 to the configuration, but we're not making anything
22 bigger.

23 One area we didn't get into there that we kind
24 of touched upon is we have to also kind of keep an eye
25 on what we can mail to people and what we can deliver

1 through our existing mechanisms. So there are going to
2 be nonenforcement practical considerations.

3 Again, this is one million vehicles out of a
4 database of 50 million. We have a lot of things to
5 juggle, a lot of mail systems to juggle, a lot of costs
6 associated with it. We don't want to hand a bill to
7 State Parks for us issuing the indicia that essentially
8 sucks up all of the money received through renewal.

9 So to answer your question directly, that's the
10 only change that's going into the next order at this
11 point in time.

12 COMMISSIONER VAN VELSOR: I guess my question
13 would be for the Division. Is there an effort, is it a
14 good idea, and I would suggest possibly, to evaluate
15 the effectiveness of the current license from the
16 standpoint of enforcement? And you may have an ongoing
17 program from that standpoint. But is it working as
18 effectively as we would like it to work, because,
19 again, that's one of the concerns that I'm hearing is
20 that there are some folks that think it's not working
21 effectively from the standpoint of enforcement.

22 DEPUTY DIR. GREENE: And so to that end, there
23 are a couple of ideas that we did have, and maybe we
24 could pursue and evaluate them. And so certainly
25 within the next time frame of when DMV, you know,

1 reissues, we can start to look at those.

2 There was some discussion at one point in time
3 whether or not everybody should have a plate and what
4 happens if you put it on the fender and will it show so
5 you can see it from the back, or do you only see it
6 from the air, again, is it big enough. DMV is saying,
7 well, people don't remember the number on the plate.
8 Law enforcement is talking about the complexity, and
9 certainly I would defer to Phil on this one, but the
10 complexity of identifying a certain vehicle, and then
11 is that registered, and what happens when you get to
12 court and the judge is not upholding that. I'm not
13 making excuses. I'm trying to look at the system in
14 which we work and where there might be potential for
15 change.

16 I would like to address Chairman Willard's
17 comment about the DMV. We currently do inserts into
18 your registration. So all of you who have
19 registrations should see those inserts.

20 And it is an issue sometimes of what you do put
21 on it. So Mr. Waldheim's point about designated trails
22 or limited use and that sort of thing, on the ones that
23 are going out this year, we had AB 134 that passed, so
24 we felt that it was important for looking at adults and
25 their responsibility with children and children being

1 able to reach and operate controls, that that should be
2 the primary message going out this year and the
3 importance of that. So you will see that on the insert
4 that goes into the DMV registration.

5 CHAIR WILLARD: Commissioner Silverberg.

6 COMMISSIONER SILVERBERG: Chief, you seem, in my
7 opinion, to be the most qualified person in this room
8 to make a statement or judgment about what your troops
9 are saying on the ground about issues with
10 identification. Would you care just to have a brief
11 comment?

12 CHIEF JENKINS: Yes. This is something that
13 over the years, having made thousands of vehicle stops
14 myself of motorcycles, quads, sand rails, et cetera,
15 one of the points that was made in the DMV report
16 really struck home, which is that by in large when
17 you're chasing somebody, you're in an active pursue or
18 somebody goes flying by and you take off after them,
19 whether that was a full-sized pickup or a sand rail or
20 motorcycle, you're involved in the pursuit to catch
21 them. Or if it's the visitors reporting a guy just
22 flew through the campsite, you need to go get them,
23 personally I can't think of one instance where they
24 gave me a license plate, even on a full-size vehicle.
25 It's always, there was a blue truck, it was a blond guy

1 wearing a green sweatshirt. You're lucky if you get
2 that much.

3 When I spoke to the field, our officers, and in
4 talking to the Forest Service and BLM law enforcement
5 officers I've spoken to, for active pursuits, that's
6 the tone of almost every officer that I've spoken to --
7 I'll say every officer that I've spoken to, is that on
8 active pursuits, you're not looking at the plates.
9 You're looking at the vehicle. You're looking at the
10 coloration of the vehicle. You're looking at the size
11 and build of the rider trying to determine if it's a
12 male or female, on the off-highway vehicles is there
13 hair coming out of the helmet like long blond hair,
14 et cetera. So certainly those are the cues that you
15 look for.

16 Certainly when you get a vehicle stopped, then
17 that registration becomes the ultimate tool that you're
18 using because you want to know who the rider is; if
19 they're law breakers, how many times they've given you
20 a fake name. Then you run the vehicle, and it comes
21 back to a person, with a physical description of the
22 person that you're talking to.

23 So it becomes a very valuable tool once you have
24 somebody stopped and you're dealing with them and you
25 can look down and read the plate. At that point

1 whether it's a larger plate or smaller plate becomes a
2 little bit beside the point. So I'm not saying that
3 there is no value to a larger plate, because certainly
4 every piece of information that a peace officer has as
5 they're trying to do their job is valuable information,
6 and it's all part of the larger puzzle that we put
7 together.

8 What I am saying is that the relative value of
9 having a larger plate on a vehicle and the likelihood
10 of those numbers being accurately reported and passed
11 on to law enforcement to help us make an apprehension
12 of the actual person who is fleeing, is a marginal
13 benefit for the potential costs and complexity of the
14 program to implement it. So from a law enforcement
15 perspective, quite simple that's the way I look at it.

16 I would add one last comment, thought, I was a
17 fly on the wall during a lot of negotiations for 742,
18 and there was at one point the negotiations, you know,
19 started going through the different things that might
20 be added, a suggestion that the Division do this study.
21 And I do recall at the time there was concern raised
22 that they didn't want us to do the study because they
23 saw it more or less as the fox in the henhouse type of
24 thing. Because they assumed that we would take a
25 position of the current status quo being acceptable,

1 and that's why it was taken out of our hands and given
2 to a third party who would be able to look at it
3 objectively and not have any preconceived potential
4 bias. So that's why it was a DMV report. We were
5 involved as far as lending them assistance where we
6 could, but we made every effort not to bias or feed our
7 opinions to them during the course of the study.

8 CHAIR WILLARD: I think we're done with this and
9 ready to move on to the next business item. I want to
10 thank the gentleman from the DMV. Thank you for
11 coming. (Applause.)

12 **AGENDA ITEM V(B) - Proposed CA Desert Protection Act**

13 CHAIR WILLARD: The next business item concerns
14 Senator Feinstein's proposed legislation on the 2010
15 California Desert Protection Act. This is pending
16 Legislature. And, Deputy Director, if you'd like staff
17 to give us our report, then we can talk about it and
18 take public comment.

19 DEPUTY DIR. GREENE: I believe all of you have
20 in your packet a summary of the bill. Also, there's
21 the link online for the bill. It's a large bill, and
22 so we didn't want to put all 179 pages of it into your
23 binder.

24 What I wanted to do today is to walk through the
25 bigger issues and complexities. It is a very large

1 bill. It started off, many of you may have known,
2 heard it called the Mother Road, the Conservation and
3 Recreation Bill. Once it was submitted by Senator
4 Feinstein in late December, it now is the California
5 Desert Protection Act of 2010.

6 And so what I would like to do is just walk
7 through it with you. I would like to preface it by
8 saying that I applaud the senator for the way in which
9 she and her staff have approached it. Certainly as
10 Mike Ahrens said earlier, that BLM can't take a
11 position, but hopefully they will be able to provide us
12 some answers to some questions.

13 The approach was to involve many communities of
14 interest and initiate that dialogue early on in the
15 hopes that once the senator introduced the bill, all of
16 the various players would be able to have known or had
17 some understanding and be able to look at the bill. So
18 let's go through and you've got this map that's right
19 in front of all of you. The members of the public,
20 it's this map. And also we have the maps in the back,
21 but I'm just going to use the pointer on this map for
22 the time being.

23 Essentially, really where much of this began was
24 between 1999 and 2003, where much of the land -- and
25 you can see it on -- the Marine Corps provided us a

1 map. It's what's called the Catelles land, and it was
2 purchased by the Wildlands Conservancy to the tune of
3 about \$30 million. It was old railroad checkerboard
4 land, and then was subsequently donated to BLM for
5 conservation purposes. Also, there was approximately
6 \$15 million in funding from the Land and Conservation
7 Fund.

8 And so as time progressed, and we all are now
9 looking at renewable energy development in the desert,
10 and interestingly enough Secretary Salazar, Director of
11 the Interior, saying that the production and
12 development of renewable energy in the desert is one of
13 the department's top priorities, suddenly this world of
14 land which was set aside for conservation purposes and
15 land on a fast track for development purposes were
16 coming head to head.

17 As we look at this bill as it pertains to
18 off-highway vehicle recreation, let's look at the open
19 areas. Right here you can see Spangler right near
20 Ridgecrest, you drop down, El Mirage, Stoddard Valley,
21 Johnson Valley, you know what's going on currently with
22 the Marine Corps, and this little area here is Rasor.
23 So when we're talking about some of the off-highway
24 vehicle recreation areas in this bill that have been
25 proposed, keep that in mind.

1 So this section here is the proposed Mojave
2 Trails inserted here. These are already wilderness
3 areas. So this would be a proposed national monument.
4 Also, right there is proposed Sand to Snow Monument.
5 This sits in between Joshua Tree National Park. You've
6 got BLM here. You've got a preserve here, Big Morongo
7 Preserve here, and you've got wilderness here in the
8 San Bernardino. So you've got these two proposed; Sand
9 to Snow and Mojave Trails. Right along towards the
10 Colorado, you've got the Vinagre Wash Proposed Special
11 Management Area, and these are additions to Joshua Tree
12 National Park. You've got proposed new wilderness area
13 here at the Avawatz, Great Falls, Soda Mountains, also
14 here the Golden Valley, over here the Kingston Range,
15 and then you've got coming all the way north to Death
16 Valley here, an area called the Bowling Alley here.
17 You've also got the designation of wild and scenic
18 river, the Amargoso, Surprise Canyon Creek, Deep Creek
19 where all of us had our tour when we crossed the creek
20 and indicated where that designation was going to be,
21 and then here.

22 So it gives you a broad perspective of this is a
23 very large area that we're talking about with a lot of
24 moving parts. I'm just going to highlight a couple of
25 them and then bring into the importance of the

1 renewable section and how that plays in with this whole
2 area.

3 So as we look in particular at the open areas,
4 in the off-highway vehicle areas, the intent of those
5 areas is to -- and keeping in mind I think we've come
6 back to the importance of this bill originally,
7 conservation and recreation and that these off-highway
8 vehicle recreation, the purpose is to preserve and
9 enhance recreational opportunities while conserving
10 wildlife and resources.

11 And so what would occur here, it is proposed
12 that management plans within two years' time, BLM would
13 need to identify the designated trails and then has
14 three years to do a management plan within these areas.
15 There's a little area here within Spangler where there
16 could perhaps be consideration of expanding. That's
17 not yet clear. That, again, is something to be looked
18 at. And then in the Johnson Valley area, as many of
19 you know, the Marine Corps, as they're going through
20 their process currently to either expand as an
21 alternative going east or perhaps west, under the
22 proposed perhaps would be the designation of -- keeping
23 in mind this is about 188,000 acres, 49,000 acres would
24 be perhaps kept as an open area and perhaps this south
25 most eastern side, about 40,000 acres, would be shared

1 use between the Marine Corps and the public so that
2 perhaps a certain amount of time a year there wouldn't
3 be live explosives out there and that recreation could
4 still take place.

5 So as you look at the OHV area, when you look at
6 the Mojave Trails, the purpose is to preserve
7 nationally significant, biological, cultural,
8 educational, geological, historic and recreational
9 values of this land. And so off-highway vehicle
10 recreation would be able to take place on designated
11 routes. BLM would have to identify those designated
12 routes within a two-year period, management plans
13 within a three-year period, and Mike can probably speak
14 to that, as well. Also, when you come down with Sand
15 to Snow, looking at the same thing, what's interesting
16 is that within each of this would be the establishment
17 of an advisory committee, and so that would be made up
18 of state and federal and communities of interest. And
19 so I think the real goal has been, again, to try to be
20 as inclusive as possible.

21 When you look in all of these areas that would
22 be available, what has been clear is that as we look at
23 renewable energy developments, right of ways and
24 existing corridors would remain open, but the
25 development of new renewable energy sites -- so, for

1 instance, solar sites or wind sites -- would be
2 prohibited in these areas. So whereas you may have a
3 corridor currently that goes through here or along
4 here, that that right of way would still be open, but
5 you would not be able to go in and build a whole new
6 30,000 solar panels. Right here, as well, Table
7 Mountain proposed transfer, this is just over 900
8 acres, that would go from BLM over to Anza Borrego
9 Desert State Park. So I wanted to make sure you're
10 aware of that.

11 Within these areas, I think, again, looking at
12 the commitment of recreation and conservation, as we
13 look over here, this is an interesting project engaging
14 Imperial County, again communities of interest. It
15 designates here this special management area covering
16 about 76,000 acres and in order to conserve, protect
17 and enhance plant and wildlife management as well as
18 nationally significant ecological, recreational,
19 archeological and cultural resources. Again, some of
20 the permitted uses would be hiking and camping,
21 mountain biking, sight-seeing, and off-highway vehicle
22 use on designated routes.

23 So at this point I'm going to turn it to the
24 Chief. For just a bit of an overview, I can go
25 actually into more detail, you've got them in your

1 binders. In terms of looking at donation of lands and
2 the creation of making it more difficult for
3 development and exploitation of groundwater, there are
4 a number of things that are in this bill, and you can
5 see them in more detail in your binder and in the
6 summaries. But we wanted just to hit on the highpoints
7 and then the renewable section, and then open it up for
8 questions.

9 CHIEF JENKINS: So there is Title 1 and Title 2.

10 Let me talk for just a minute about Title 2.

11 This is our chart trying to illustrate how some of the
12 money will flow in Title 2 that we put together. One
13 of our staff members was up late last night printing.
14 As we were reading through and preparing for our
15 presentation, and Daphne and I are batting ideas off of
16 each other last night, when you start talking raw
17 numbers, this fund and that fund can get very
18 confusing. So we tried to represent it here, so I'll
19 be using this to illustrate a little bit about the
20 money flow and how it works.

21 Title 2 is entitled "Desert Renewable Energy
22 Permitting." And it sets out that for these new energy
23 areas, monies, of course, would be collected by the
24 federal government for these to have new solar, wind,
25 et cetera, areas established. And then they wanted to

1 make sure that there was a way to take care of the
2 areas when they're shut down and restore the land.
3 They wanted to make sure that there was a process in
4 place so that state and county governments were paid
5 for the use of their lands, where there are corridors
6 crossing their lands, et cetera.

7 So as you read through Title 2, one of the
8 things that was confusing to a number of people that we
9 tried to represent here, they're forming right at the
10 beginning of the title what they're calling renewable
11 energy coordination offices. And so on this chart
12 that's represented by the circle in the center of the
13 page, what those boxes on the top represents are
14 various sources of revenue from either putting up
15 development for energy corridor to remove energy from
16 these renewable sources to these coordinating offices.
17 Now, oil and gas is already in place. They already
18 have a fund that I'll get to on the bottom there where
19 they add money into this, is how they're going to
20 expand it.

21 So these various efforts for renewable energy
22 will generate funds, and the government portion of
23 those funds will go to the coordinating office which
24 then divides the money as they show across the bottom
25 of the page. So the RECO offices would give 25 percent

1 of those incomes to state government, 25 percent to
2 county government of the states that the energy source
3 was located in or the county or counties that the
4 energy source was on top of, laying in or energy
5 corridor on top of.

6 And then 40 percent would go two different
7 places, and that's why that chart, that 40 percent box
8 has a top and bottom. So from the passage of the bill
9 until 2020, 40 percent of those funds collected would
10 go to the Permit Processing Improvement Fund. So
11 that's that top half of the box, Permit Processing
12 Improvement Fund until 2020.

13 After 2020, so beginning in 2021, that
14 40 percent would go to the Land and Water Conservation
15 Fund. And then finally the remaining 10 percent of the
16 money in the far right-hand box on the bottom there
17 would go to the Solar Energy, Land Reclamation,
18 Restoration and Mitigation Fund. Perhaps we will just
19 call it the mitigation fund for right now.

20 As we were analyzing the proposed legislation --
21 like I said, this is just a diagrammatic analysis of
22 what we're reading in the legislation -- the 25 percent
23 to the state and county, there's not a lot of direction
24 about how those monies are to be used. Of course, the
25 40 percent, there is some specific language in there

1 about how that is to be used, and it's primarily in the
2 first part to replenish that Permit Processing
3 Improvement Fund, which they currently use for the oil
4 and gas leasing, now they use for all of these energy
5 sources. And then later the Land and Water
6 Conservation Fund, of course, has pretty tight
7 restrictions on it for those specific purposes.

8 And then that final fund, that 10 percent, Solar
9 Energy, Land Reclamation, Restoration, Mitigation Fund,
10 the legislation describes that that money would be used
11 for restoring sites after perhaps a plan to shut down,
12 various environmental improvement efforts, et cetera.

13 There is also, as you go through Title 2, a
14 section in the back called, "Habitat Mitigation Zones."
15 And that is describing that they will be setting up
16 acquiring a minimum of 200,000 acres of land that would
17 be used primarily for improving habitat for various
18 endangered species. The land could be either federal
19 land that currently has uses on it that is detrimental
20 to environmental concerns or the tortoises, et cetera,
21 or it could be land that was purchased from nonfederal
22 entities, so that could be state, federal, or private
23 lands that were purchased.

24 So this part of the Title 2 is essentially an
25 effort to ensure that some of the endangered

1 environments in the desert down there are protected and
2 preserved and that they're then available for
3 mitigation for some of these other efforts that are
4 going on with energy development. So in very, very
5 broad brushstrokes that's the Title 2 of the act.

6 DEPUTY DIR. GREENE: What I wanted to show you,
7 just because there have been a number of questions,
8 also proposed in the Kitty Mountains, there is a
9 wilderness study area. Part of what that proposal
10 would do would be to take that out of protection, but
11 it actually would then add it into the Mojave Trails.

12 So there has been some concern that people have
13 expressed about whether or not if you remove it from
14 currently as a wilderness safe area and then try to
15 have it become part of the Mojave Trails, you still
16 have identified routes that have just been done as well
17 with the BLM and the recent planning process. So I
18 just wanted to try and clarify that, as well.

19 In your packets that you have in front of you,
20 as you look through those, you'll see that within some
21 of the wilderness areas -- you don't really see it here
22 as much -- you can see where in some cases there are
23 corridors that will go through, in other cases there
24 are cherry stems, so just as you're looking at some of
25 those and also for clarification purposes in here, I

1 wanted to raise that.

2 Of course, there are opinions on all sides, but
3 I think our goal was just to try to initiate the
4 dialogue. Certainly, this bill is going to move
5 through the process, and I think our goal is then to be
6 able to in April share more information with you, as
7 well, and be able to highlight where the bill is at
8 that time as we move forward. I don't know if you have
9 any questions. Mike, you're on the hot seat, as well.

10 CHAIR WILLARD: Thank you. This looks like a
11 fairly complicated bit of legislation. I'm not sure
12 that we really have enough information to really do
13 something or even if it would be appropriate to take
14 some action today or not. Any sense of the timeline on
15 this? Just trying to keep in mind that we do have
16 another meeting coming up the end of April. How is
17 this bill progressing?

18 MIKE AHRENS: I would only offer, I was at that
19 briefing with the senator's staff here last week on
20 this, actually, and he did note that it's certainly one
21 of the senator's priorities, would like very much to
22 get it into the queue this spring and get it moving. I
23 think she very much would like to see it finished this
24 year. Again, with the busy schedule that Congress has
25 right now, whether or not that will actually hurt her

1 is really anybody's guess.

2 CHAIR WILLARD: Then I didn't see anything in
3 here, and I didn't read it word for word, but I didn't
4 see anything on the renewables, the Title 2 section
5 where it might have talked about impacts on recreation.

6 CHIEF JENKINS: There is language in Title 2
7 that talks about conflict areas. For instance, they go
8 through a series of definitions, and one of the
9 definitions is conflict areas.

10 But Title 2 is virtually exclusively focused on
11 environmental concerns. So when they talk about
12 conflict areas, it is specific in defining that as
13 areas where transmission lands for development of
14 renewable power, energy sources would conflict with
15 environmental issues and have ecological impacts. And
16 so that whole back section is more about the effect of
17 the renewable energy development on the environment.

18 The first half is where you find all of the
19 stuff that's really of interest as far as setting up
20 the really protected areas. For instance, like I said,
21 this is a very complex piece of legislation to try to
22 synthesize and present in short order. But perhaps of
23 interest to many of the members of the OHV community
24 who want to continue to recreate in these areas, it
25 does say, for instance, in these five, maybe call it

1 four and a half, since the Johnson Valley one is a work
2 in progress about how much of that will be protected,
3 but the five OHV areas, this legislation as it
4 currently sets, would not allow development of
5 renewable energy production. It does apply energy
6 corridors to come through these areas.

7 So, for instance, you wouldn't have to be
8 concerned about losing several hundreds or thousands of
9 acres to wind or solar farms, but you very likely would
10 see transmission corridors coming through there. It
11 does say that they have to first try to use existing
12 corridors and existing resources. After that, they
13 have to look at upgrading the quality of the power
14 lines so that they can get more. There's new types of
15 power lines that they can put into place that allow
16 them to put many times more energy through the same
17 transmission lines. And only after they've exhausted
18 those would they look at establishing new corridors.
19 So there are a number of things in there that would
20 give us long-term opportunities for OHV recreation.
21 And then the back of the bill focused, like I said, on
22 environmental.

23 CHAIR WILLARD: So if I could make sure I
24 understand it. On the one hand we have these five
25 areas that are going to be set aside as permanent OHV

1 riding opportunities, and then on the other hand we
2 have a number of areas that are going to be set aside
3 as permanent wilderness, which is absolutely no motor
4 vehicle use, and then there is sort of everything in
5 between that could have energy uses created on the
6 lands, and that in some instances those lands may
7 already be areas that are used for recreation. And
8 would then it go through a regular process where all of
9 the stakeholders would be invited to submit their
10 comments to, I guess, it would be a NEPA, and any
11 energy company that wanted to set up a huge solar field
12 would have to go through the process, so those who
13 would have recreated on that land would then be able to
14 then make comment? Does the bill even get into that?

15 CHIEF JENKINS: Let me clarify one point on the
16 first part of your question, and then perhaps deal with
17 the second half.

18 Yes, there is the off-highway areas, and then
19 there is the wilderness areas. But don't forget there
20 is also those other special management areas like the
21 Sand to Snow or Mojave Trails areas. In the
22 legislation it does say that motorized recreation would
23 still be allowed, of course, on designated routes in
24 those areas. So there is quite a bit still of
25 opportunity for public access.

1 Now, as far as the permitting processes, I don't
2 want to make any assumptions on that. Mike, you know
3 better.

4 MIKE AHRENS: On some of that, as far as the
5 renewable energy permitting, some of that is still very
6 much under development as we move through a new era in
7 planning for ourselves. Let me back up and say that
8 the two proposed monuments, each bill requires each of
9 those to have a monument plan developed. It can be
10 developed in full consultation with the public. In
11 fact, the legislation requires an advisory committee
12 for the development and implementation of each of those
13 plans.

14 The OHV areas that would be designated, the bill
15 actually gives us the ability to either continue to use
16 our existing plans or upgrade those plans. I'm not
17 sure which ones we would ultimately choose to do, but
18 it specifically talks to that need to potentially do
19 that.

20 And then in the renewable energy, we're already
21 through -- it's part of department's policy and
22 program. If you've been following energy, you've heard
23 about the programmatic solar EIS that's being produced
24 right now. It's identifying solar zones where --
25 trying to identify those lands that would be where

1 solar generation plants would be most appropriate,
2 leasts amounts of conflict with resources, recreation,
3 you know, whatever that might be, private lands, other
4 lands, ownerships.

5 So this would take and focus development of new
6 generation plants in those areas and help to streamline
7 by requiring the department and bureau to coordinate
8 with federal, state, and local agencies, develop a
9 process through this RECO teams, as Phil had pointed
10 out, to actually develop a coordinated process by which
11 all of those agencies' needs and that planning
12 environment are accommodated in as streamlined a
13 process as possible.

14 Something we are actually already trying to do
15 now, all of the generation plants we're working on
16 currently have co-led projects between the bureau and
17 the California Energy Commission or Public Utilities
18 Commission depending on the types and sizes of it. But
19 this would regulate that, would require us to do that
20 even more so, and puts the process in place to make
21 that happen, hopefully actually stream that a little
22 better. All of those go through a complete right of
23 way planning process. There is an EIS that's involved,
24 and all of the public involvement as required for any
25 NEPA document.

1 DEPUTY DIR. GREENE: Mike, just a quick note,
2 there had been a number of questions in terms of the
3 other open areas in terms of Imperial Sand Dunes and
4 Dumont Dunes. Given those are open areas, as well, I
5 think we heard from Ed Waldheim today earlier the
6 concern that some of the other OHV areas could be
7 vulnerable to development, I think we saw recently at
8 the old Rudnick property, the Onyx Ranch, where a
9 renewable energy company came in and immediately bought
10 the land and turned much of the land over to the City
11 of Vernon for wind development.

12 So I think the idea that perhaps to designate
13 congressionally designated areas where no development
14 could occur in this day and age of development rapidly
15 occurring is something that is a positive thing.

16 COMMISSIONER SLAVIK: Question about the Dumont
17 Dunes area, Mike. Looking at this map, there is a
18 little green spot there, it's up above on that map,
19 it's where the Amargoso is; is that Dumont Dunes, the
20 green spot there?

21 MIKE AHRENS: No, that's north of it. Actually,
22 the green spot is a highway marker.

23 COMMISSIONER SLAVIK: So it's probably right
24 where that Amargoso River WSR is; that must be Dumont
25 then, right?

1 MIKE AHRENS: It's down I think south where
2 you're talking about. It's considerably below. It's
3 actually in that -- I'm not sure why we have a square,
4 rectangular, vertical box there. It's just basically
5 at the top of that box, and I'm not sure what that box
6 is. I don't think it's on the map is what I'm trying
7 say.

8 COMMISSIONER SLAVIK: Doesn't Amargoso run past
9 Dumont?

10 MIKE AHRENS: It does. It's identified wild and
11 scenic there, and I guess I'm not sure what's happened
12 with the lower section of that.

13 COMMISSIONER SLAVIK: I'm wondering maybe it's
14 got water up there where that little blue line is, but
15 isn't that stretching the definition of a wild and
16 scenic river if there is no water in it?

17 DEPUTY DIR. GREENE: I don't think Mike is going
18 to be able to respond to that.

19 COMMISSIONER SLAVIK: Going back to my question
20 about Dumont Dunes, I don't see any place for Dumont
21 Dunes there. Is it left in this plan, is it out of the
22 plan, or what's its status?

23 ED WALDHEIM: The 10,000 acres or less were not
24 included. That was the same thing we have for Rasor,
25 and Jawbone, and Dove Springs. Dumont is less than

1 10,000 acres. That was the cutting range of what they
2 took in for the bill. If it's less than 10,000 acres,
3 it's not part of it.

4 MIKE AHRENS: I heard that the senator's
5 attempt was to try to stay within San Bernardino
6 County. So, no, the Dumont Dunes is not included in
7 one of the five OHV areas.

8 COMMISSIONER SLAVIK: I didn't think it was
9 included, but I'm wondering in the whole plan is it
10 considered or is it just out of the parameters?

11 MIKE AHRENS: It's just not being discussed at
12 all.

13 COMMISSIONER SLAVIK: And Rasor, that's one of
14 the five areas?

15 MIKE AHRENS: It is.

16 CHIEF JENKINS: Yes, it's right there.

17 COMMISSIONER McMILLIN: This is a good sampling
18 of trying to educate us on this. But maybe Daphne can
19 forward to me and other people, how do we begin to
20 learn about this ourselves, just general public? Is
21 the senator having workshops? Without reading
22 198 pages of insider garbage, how does somebody start
23 learning about what this really means? This is a
24 really good start.

25 DEPUTY DIR. GREENE: I would say communities of

1 interest are very engaged in this process, are very
2 engaged, and so I think that is a good place.
3 Certainly, we're happy to help in whatever way we can.
4 Mike's parameter is similar to mine, Resources Agency,
5 Governor's position on the bill is not yet defined. I
6 will say again their priority has been and continues to
7 be the development of renewable energy.

8 COMMISSIONER McMILLIN: I just define garbage as
9 legal legislative stuff that's impossible to read.

10 But as I am reading the summaries here about
11 taking 250,000 acres here and 49,000 here, and then
12 they say permitted uses will be hiking and preserving
13 off-road stuff, I just can't believe that those two are
14 going to go together. I would have to believe they're
15 setting a trap, another trap.

16 DEPUTY DIR. GREENE: Actually, I think the
17 commitment is there, just in my own dealings with the
18 senator. And I think this also speaks to communities
19 of interest needing to stay engaged. Just because a
20 bill passes doesn't mean that you don't stay engaged in
21 the process.

22 But I think that that commitment to recreation,
23 whether it be camping or taking a vehicle to a location
24 and then hiking within some of these areas, there's
25 some pretty amazing terrain out here, and maybe I'm not

1 as pessimistic as you are, who knows. Again, I would
2 say you have to remain vigilant.

3 COMMISSIONER McMILLIN: There's a lot of
4 California left, I'll admit, but it's hard to get to.
5 Set up areas like that Bowling Alley, there's nothing
6 other than a big fence.

7 CHAIR WILLARD: That must be a mistake on the
8 computer.

9 DEPUTY DIR. GREENE: This is a new computer
10 glitch.

11 MIKE AHRENS: The horizontal one is the Bowling
12 Alley. It's been an issue since the last wilderness
13 bill.

14 DEPUTY DIR. GREENE: And if I might just
15 propose, the public perhaps would have some ideas for
16 you in, as well.

17 CHAIR WILLARD: Probably take public comment.
18 On the one hand, I'm really happy to finally see
19 legislation that actually does carve out lands for
20 permanent OHV use. So that's a good thing, right? I
21 guess I'm also sort of guarded on what the rest of the
22 bill means for recreation, and I think it's just way
23 too early, for me at least, to make a judgment on that.
24 And there's a lot of other information that we need to
25 get. So I think what we would probably do is --

1 MIKE AHRENS: I just might also add, because I
2 think it's timely, and in consideration of Bruce's
3 comment earlier, we very much would like to give you a
4 comprehensive presentation on energy development in the
5 desert and what have you. So I talked to Daphne about
6 doing that with this meeting, looked like there was
7 probably too much on the plate already, probably was.
8 So in a future meeting, we'd be very happy to do that
9 and perhaps get the senator's office to send somebody
10 to talk about the bill itself, as well.

11 CHAIR WILLARD: Thank you. We'll probably do
12 that. This probably will be on the next agenda it
13 sounds like. So maybe what I could do is throw out
14 some ideas of what I see us doing, and then the public
15 can make comment on that, and then we can wrap it up.

16 So I think the Division and the Commission
17 should be engaged with the senator's office on this
18 process. I'm sure Division is. Perhaps we could write
19 a letter to the senator thanking her for the
20 corroborative effort on coming up with a bill that does
21 identify permanent OHV areas and also perhaps letting
22 her know that we'll be studying the bill closer, that
23 we're going to have this agenda on a future meeting,
24 and that we may also provide more detailed comments at
25 that time. Sort of just opening a door, raising our

1 hand, hey, we're here and would like to be part of the
2 process, I guess.

3 Commissioners, have any comments on that?

4 COMMISSIONER FRANKLIN: I don't have a problem
5 sending a letter to the senator's office and commenting
6 on the fact that at first blush this is looking like a
7 good thing. I don't want to take too much of a
8 hardline stance on supporting or damning the idea, just
9 I want to be able to learn more about it, see how the
10 process goes before fully endorsing.

11 CHAIR WILLARD: That's exactly what my intent
12 would be. That sounds good. So what we'll do is take
13 public comment on this, and then we can revisit it
14 after we hear what the public has to say.

15 Let's take a ten-minute break and when we come
16 back we'll hear public comment.

17 (Break taken from 2:41 to 2:57 p.m.)

18 CHAIR WILLARD: I'm going to open it to public
19 comment on the Desert Protection Act that we just
20 heard. So I'd like to call Fred Wiley.

21 FRED WILEY: Thank you, Commissioners. Fred
22 Wiley with the Off-Road Business Association. I have
23 sent to you -- or she is handing it out now -- a
24 letter for support of this bill from the Off-Road
25 Business Association. Our support is contingent on

1 this bill as it is written.

2 We do have some concerns about the renewable
3 energy sections, but we feel that we can continue to
4 work on those as it moves through the committees and
5 Congress. It's interesting and very fluid as we work
6 through this process for an OHV organization like ours
7 to stand before this group and support an energy,
8 water, wilderness bill as it stands. That is unusual
9 for us at this point, but the reason that we are doing
10 this is we think that this is the way of the future for
11 future land acquisitions, closures, and other
12 processes.

13 I would also like to tell you that Ecologic
14 Partners, which is San Diego Off-Road Coalition,
15 District 37 of AMA, along with ORBA are sending letters
16 of support for this bill as written. I've spoken with
17 Dave Pickett, he has indicated as long as the bill
18 doesn't change in committee that they will support it.
19 So there is good support for the OHV community on this
20 bill as it is written today.

21 I would hope that the Commission sees fit to
22 send a letter of thanks to the senator and her staff
23 for making this an open process. I know you need
24 further education before you take a position, but I
25 think it would help to get you introduced so that there

1 is a dialogue developed. I know the Division has
2 worked long and hard on this. I think this would be
3 helpful for your education in the future.

4 ED WALDHEIM: Thank you, Mr. Chairman. Ed
5 Waldheim.

6 This bill is not supported by the OHV community.
7 Mr. Fred Wiley is taking great liberties. He can only
8 talk for certain organizations. He cannot speak for
9 us, the people, the public at large.

10 Jim Peterson has gone a great job. I was at the
11 meeting. Jim Peterson knows me. We've work together.
12 It's a totally different dialogue taking place now than
13 it was before with S 11, S 21, totally different. The
14 man is the pretty honorable when there is a problem on
15 a certain section, he wants to go out and look at it
16 personally himself. Tomorrow we have staff going out
17 and looking at the Kingston Range on trails that they
18 told us we would keep cherry stems. They were not in
19 the bill. Tomorrow they are going to go and they're
20 going to look it. So I have to give them credit for
21 that.

22 The problems we have is the devil is in the
23 details. You can't jump into the hot water because
24 once you're in it, it's pretty hard to extract yourself
25 out of it because you get yourself fried do death in

1 the hot water. The areas that they say they're going
2 to set aside for us, there is a caveat, and Mr. Jenkins
3 brought that out. There will be a plan to be brought
4 up, a group will start studying that. Bells ring in my
5 head. What plan, what things, what's coming out of
6 this. I have no clue what's going to happen in there.

7 We have issue, yes, the OHV can continue, but
8 you have to remember that the Bureau of Land Management
9 is under the cloud of the Center of Diversity lawsuit
10 on the West Mojave plan, no signing is taking place.
11 That's stopped dead cold. There is no signing taking
12 place because it's in limbo which trail is a legal
13 trail or not because they're questioning that we have
14 too many trails when we lost 8,000 much miles of trail,
15 when we have only have 5,000 miles left over on the
16 West Mojave Plan, 17 years of planning. I was at every
17 one of those bloody meetings. But everybody forgets
18 about the 8,000 miles of trails they took away from us.
19 And now they say, well, 5,000 is too many. So have a
20 gridlock.

21 In that gridlock there are these areas, what's
22 going to happen with these trails? Is this now subject
23 to a total review of the lands again? Yes, continued
24 use is what they say. But is it really going to be
25 continued? Who knows. Red flags again is coming up in

1 my ears on this issue.

2 I do not doubt Feinstein's desire to get this
3 thing going. She's doing an incredible job conversing
4 all of the studies, so much so the California League of
5 Cities Desert Mountain Region, I attended their meeting
6 thanks to the compliments of the City Councilman Mike
7 Edmonds from California City, he takes me to these
8 meetings, and I addressed this group. They have not
9 voted on this bill. They want to hear more about it,
10 just like you need to do. Find out before you jump
11 into this hot water bottle to see exactly how is this
12 going to affect our community.

13 Remember, the California City League of Cities,
14 they cover this whole region. They have an incredible
15 economic stake in this thing, what's going to happen
16 with this bill. They are not ready to jump in there.
17 There's a lot of issues. Good stuff, but a lot of
18 issues we need to answer. The 200,000 acres that
19 they're talking about for the mitigation, where is that
20 going to come out of? Listen, I don't know. And
21 nobody is telling us where that 200,000 acres of
22 mitigation is going to come out of.

23 What was not brought up, in Stoddart Valley,
24 40,000 acres of the Stoddart Valley is being slated for
25 wind energy. They are putting up the wind tiometers,

1 whatever they call those things, as we speak, all the
2 way up to the outlet mall. They're doing it now. So
3 there are so many unanswered questions.

4 So I like the idea that you probably invite
5 Jim Peterson to come and talk to you. He would
6 probably love that arena to present it to you and put
7 up a PowerPoint presentation. He's good, honorable,
8 but we need to put things on record that, yes, this is
9 what we are going do.

10 I agree with Fred on conditions. The American
11 Motorcycle Association has not endorsed this. They
12 have issues with this. They want the issues to
13 resolve. There are things, we are not the only one.
14 So please understand on the record the off-road
15 community is not jumping into this thing. Just some
16 organizations jumped into it, but they do not speak for
17 us, the rank and file, who are out on the ground.

18 JOHN STEWART: Good afternoon, Deputy Director
19 and Commission. On Saturday, February 20th, the
20 California Association of 4-Wheel Drive delegates
21 discussed this bill in their session and voted to
22 oppose this bill as written, and they expressed a
23 desire to still remain engaged as this bill moves
24 forward. Thank you.

25 CHAIR WILLARD: I think that is it. Thank you.

1 Commissioners, comments, further questions?
2 Shall we do anything?

3 COMMISSIONER SLAVIK: I like the idea of having
4 a presentation. It's good idea to request that.

5 DEPUTY DIR. GREENE: We had tried to do that
6 today as a matter of fact, but James is back east, so
7 it didn't work.

8 COMMISSIONER LUEDER: I'd just like to follow up
9 with what Commissioner Franklin said earlier is that an
10 opening letter to the senator's office might be a good
11 idea just briefly stating that we're interested in this
12 and would like to engage further and maybe invite their
13 representative to the next meeting.

14 CHAIR WILLARD: Would you like to make that as a
15 motion.

16 COMMISSIONER LUEDER: I'll make that a motion.

17 CHAIR WILLARD: I'll second.

18 Discussion? Any comments on the motion that the
19 Chair -- I presume you meant the Chair would draft a
20 letter on behalf of the Commission?

21 COMMISSIONER LUEDER: Yes, that's correct.

22 CHAIR WILLARD: Just to make sure I understand,
23 so the letter would basically thank the senator for the
24 corroborative efforts so far. We remain very
25 interested in the legislation. We're glad to see that

1 there is the potential for a permanent OHV area, but
2 we'd still like to learn more. And in that letter we
3 can invite her staff to come to our next meeting.

4 COMMISSIONER LUEDER: Yes, that's correct.

5 COMMISSIONER VAN VELSOR: I guess I'm going to
6 have to clarify to some extent my -- I work with The
7 Wilderness Society, so there's the possibility of some
8 conflict of interest here. So for me as a commissioner
9 to support some aspect of the bill could be contrary to
10 my organization's position. So if we are taking a
11 position one way or another on any aspects of the bill,
12 then I would just have to abstain.

13 CHAIR WILLARD: Okay. I don't envision this
14 letter taking a position. I think it's thanking her
15 for the cooperating so far and for the work that's been
16 done, but we want to be engaged and we'd like to hear
17 more. I don't think that's not what the motion was.
18 The motion wasn't to support the legislation. It was
19 thanking her for the efforts so far, we want to be
20 engaged, we want to know more.

21 And I think at the next meeting I would envision
22 us, if the Commission deems appropriate, then taking an
23 action. And if you wish, you can abstain from voting
24 at that point. But at this point, the letter, in my
25 view, is not taking a position on the legislation.

1 COMMISSIONER VAN VELSOR: Nor no aspect of the
2 legislation. Your statement included support for an
3 aspect of some component of the legislation that we may
4 or may not be as an organization supportive of. So
5 therefore I would be happy to participate in a letter
6 that does not make any statements about support or
7 opposition to any component of the bill at this point
8 in time.

9 COMMISSIONER McMILLIN: I think the letter ought
10 to strictly be a nice polite invitation to come educate
11 us further.

12 DEPUTY DIR. GREENE: Just as a suggestion, you
13 could perhaps say that you appreciate the senator's
14 efforts to engage all communities of interest as this
15 legislation was crafted and leave it at that. And then
16 say that if it's at their convenience to perhaps attend
17 the next meeting or even let you know of workshops that
18 would be -- I certainly would let you know -- workshops
19 where you could perhaps be out more in the public and
20 hear from a variety of sources and a variety of
21 opinions to get a better understanding. But we can
22 work together on that.

23 CHAIR WILLARD: Commissioner Lueder, as the
24 maker of motion, do you want to amend to have the
25 letter be more of just a general thank you and we're

1 interested?

2 COMMISSIONER LUEDER: That would be fine with
3 me.

4 CHAIR WILLARD: So that motion is amended. Any
5 other comments, questions? Otherwise, I'm going to
6 call for the vote.

7 All those in favor?

8 (Commissioners simultaneously voted.)

9 CHAIR WILLARD: So that motion passes.

10 **AGENDA ITEM V(C) Clear Creek**

11 CHAIR WILLARD: So the next business item is a
12 briefing and then discussion on the Clear Creek
13 Management Area, specifically the Draft Resource
14 Management Plan and Draft Environmental Impact
15 Statement which was introduced by BLM on November 2009.

16 Deputy Director, did you have any initial
17 comments, or should I go straight to BLM?

18 DEPUTY DIR. GREENE: Just to introduce it,
19 obviously BLM has been in this process. When the draft
20 plan came out, we recognized at the last meeting, last
21 couple of meetings, that there has been a desire to
22 better understand it. And certainly when the
23 Commissioners, some of the Commissioners attended some
24 of the public meetings, we felt that it was perhaps in
25 the interest of everyone to invite BLM. And I

1 appreciate Rick Cooper for being here to brief you on
2 the document which is quite large and very complex, and
3 just to be able to give all of you an understanding of
4 where they've been, and where they are, and where
5 they're going.

6 RICK COOPER: Mr. Chairman, Commissioners, thank
7 you for providing an opportunity. Daphne had indicated
8 she wanted me to try to give you a little bit of an
9 overview, so I'm going to try to do this in an
10 expedient amount of time. My name is Rick Cooper. I'm
11 the Bureau of Land Management, Hollister Field Office
12 manager.

13 So I'm going to go over the planning background.
14 I'm going to give you a little bit of an overview of
15 asbestos information, specifically kind of what we know
16 and what we don't know, go through the risk models to
17 give you a little bit of idea of what we're discussing
18 there, go over the current planning effort, and then
19 finish with the RMP EIS planning schedule. The packets
20 that I've handed out have this PowerPoint presentation
21 on there for you to follow along, make notes, or look
22 at afterwards.

23 So for over five decades more or less, more
24 according to some, less according to others, there has
25 been extensive OHV recreation use occurring. It's been

1 a major destination point for four-wheel drive and
2 motorcycle recreation. And the unique geology, the
3 rugged terrain, the open vegetation patterns and
4 serpentine soils created a high-quality recreation
5 experience.

6 Now, the area that we're looking at, the
7 serpentine formation is inside the red line that you
8 see there, and then the trail network system that you
9 see out there right now is in the green, and those
10 trails are the authorized trails according to our route
11 designation plan that we completed in 2006. The green
12 line around the outside is actually the Clear Creek
13 Management Area boundary. That's what we're writing
14 the plan on. So we're making land use decisions on
15 everything inside that green line. And there's about
16 63,000 acres of public land, about 10,000 plus acres of
17 private land, and then you also have some state lands
18 in there.

19 The other item I wanted to point out on this was
20 that unique feature here, the Atlas Mine, which is a
21 SuperFund site and that was one of the interesting
22 topics we'll talk about as we move through this. And
23 then there's also a feature here as an unmaintained
24 county road network in here. It's a San Benito County
25 road network. That's also in the area.

1 So the serpentine ACEC, this slide really shows
2 how the ACEC fits into the management of the whole
3 area. And the ACEC is the area where the predominant
4 amount of trails exist on it for OHV recreation. The
5 Atlas Mine was put on the national priorities list in
6 1984, and they began work on the remediation of it as a
7 SuperFund site in about 1988.

8 So just a quick rundown on the planning
9 background. We have a 1978 Fresno San Benito MFP.
10 That's a management framework plan. That's what the
11 BLM used to do towards planning. We have a 1984
12 Hollister Research Management Plan that was developed,
13 and that was going into the new planning system style.
14 And then we did a 2007 Hollister RMP EIS, which
15 excluded Clear Creek Management Area from that process.
16 So the '84 and the 2007 plans were on 300,000 acres of
17 public land, of which Clear Creek is just that smaller
18 part. However, on the '84 Hollister plan, we did do an
19 amendment on the Clear Creek Management Area in 1995.
20 We left it off in 2007 -- I'll actually go into more
21 detail on that. And then in 2009, we are at this point
22 here of a draft RMP EIS for public review.

23 So the '78 Fresno San Benito MFP, they
24 recognized at that point in time that there needed to
25 be more information on asbestos. And basically the

1 plan determined that the asbestos hazard should be
2 studied. As part of that, in '78 BLM along with
3 UC Berkeley cooperated with the researchers at
4 Berkeley. In 1979, the UC Berkeley asbestos exposure
5 study was published. The title of the article was
6 "Chrysotile Asbestos in a California Recreation Area,"
7 and that actually is in your packet of materials there.

8 That study determined there was a high
9 concentration of asbestos in the recreation area, and
10 they quoted, "This is the first instance in which we
11 are aware in which naturally occurring airborne
12 asbestos, not the result of mining, milling, or
13 industrial activity, has been shown to occur in levels
14 comparable in the workplace." So we have that
15 information.

16 We developed an activity-based plan for Clear
17 Creek in 1981, BLM did. And effectively what came out
18 of that was the public would make their own decisions
19 as to exposure to asbestos in that area.

20 Now, the 1984 Hollister RMP, again, this plan
21 went through and looked at a whole set of alternatives,
22 just like we're doing now. OHV use would continue in
23 the serpentine ACEC despite the recognized hazard.
24 Asbestos hazard awareness program would be emphasized.
25 And BLM's decisions were to attempt to reduce camping

1 and staging needs in Clear Creek Canyon itself by
2 acquiring land outside the ACEC for camping and
3 staging.

4 So some of the key events that occurred after
5 the '84 plan came out was in '84, the Atlas Mine, as I
6 mentioned earlier, was put on the priority list and
7 became a SuperFund site. In 1985, there was a Cal-OSHA
8 study conducted, and that was as a result of a wildfire
9 which took place in 1985, resulted in about 300 to 500
10 firefighters being exposed to NOA while fighting fires
11 in the ACEC. So the Cal-OSHA industrial hygienists
12 were asked to come out and do an investigation, and
13 they developed a report which is titled there,
14 "Evaluation of Airborne Asbestos Encountered While
15 Traveling or Working in the Area." The conclusions
16 that came out of that, and this plan is in there as
17 well, is air monitoring supports of recreational or
18 industrial activities in the area will result in an
19 overexposure to the OSHA limit for asbestos fibers.
20 The data reaffirms that the recreation use in this area
21 subjects citizens and employees to needless risk of
22 lung cancer and asbestosis. So when they're saying
23 reaffirms again, they're referring back to the
24 UC Berkeley study.

25 Firefighters who were required to access the

1 area and work were exposed to asbestos fibers in excess
2 of the Cal-OSHA permissible exposure level. The
3 Cal-OSHA level at that time was two fibers during a
4 30-minute work period. It's now one fiber.
5 Essentially things were cut in half about 1995. Cal
6 Fire to this day does not put crews on the ground to
7 fight fires in that area. They do not put any. And
8 the reason I bring that up, we have a direct protection
9 agreement with Cal Fire throughout the State of
10 California. In my particular field office, they fight
11 the fire, and they are the initial attack on the
12 ground, and they won't put people in that area. We are
13 strictly an air show there. We have an agreement with
14 them. We understand why they won't. And if we decide
15 we don't want air retardant drops in there, we'll
16 actually put our crews in there, the federal crews if
17 need be.

18 In 1991, EPA was signed -- or actually in 1991,
19 EPA signed a ROD for the Atlas Mine cleanup. So as I
20 said, they had started looking at the site for
21 remediation studies in 1988, '89, and CCMA, as part of
22 that record of decision, they listed Clear Creek
23 Management Area, specifically the serpentine ACEC
24 portion of the site, as one of four geographic areas
25 part of the SuperFund site. So in order to delist,

1 effectively they have to consider what is going on in
2 all four geographic areas, of which Clear Creek was
3 one.

4 In 1992, BLM started its own Clear Creek
5 Management Area human health risk assessment. We
6 contracted that out to a private organization, much
7 like EPA did with CH2M Hill. It's a very similar
8 study, activity-based study where you're measuring
9 motorcycle use out there. They have air filters that
10 are attached close to where the breathing way is. The
11 air filters have a pump that sucks the air in at
12 approximately what an average breathing respiration
13 would be, and those were used at this time in 1992
14 during the BLM study. They were also used, fairly same
15 technology, in 2004 through 2008 when the EPA did their
16 work.

17 In 1995, Clear Creek Management Area proposed
18 RMP amendment final EIS. So with that study, that was
19 done in 1992, BLM started a resource management plan
20 amendment to the 1984 plan. And as a result of
21 evaluating the study, they developed a ROD that took
22 place in 1999, a record of decision. That record of
23 decision continued OHV use in the CCMA. It did that,
24 and it recognized that there were hazards. There were
25 hazards associated. They had increased numbers of days

1 of activity out there that you could exceed a threshold
2 for public exposure. But at the same time, the days
3 were fairly high and the decisions were made at that
4 time to continue the OHV use.

5 The difference on this study is the BLM
6 information that was gathered at this point in time,
7 there was a little bit of difference in asbestos
8 concentrations found at this time, as opposed to what
9 had been found in the two previous UC Berkeley studies.

10 So in 2004, EPA Region 9 initiates an asbestos
11 exposure health risk assessment for Clear Creek. As I
12 said earlier, it's part of their process to delist
13 Atlas Mine, so both they and the Department of Toxic
14 Substance Control in the State of California had
15 concerns about ongoing recreation in the area. And the
16 other thing that they were hoping to do with this is to
17 bring some clarification between the discrepancy
18 between the 1992 report that we had as far as asbestos
19 concentrations versus the 1998 report. So while this
20 was taking place, BLM was mandated to finish its route
21 designation program. And in 2006, we finished route
22 designation for the Clear Creek Management Area and had
23 final decisions.

24 So the 2007 Hollister RMP EIS, which was
25 completed in August, that was started in 2004. And as

1 I said earlier, we removed Clear Creek from that as
2 part of the planning process, and we removed it based
3 on an agreement between the BLM state director and EPA
4 Region 9 director. And they agreed to allow EPA to
5 complete their activity-based air sampling study which
6 would provide BLM with up-to-date information and data
7 on asbestos exposures. So the 2007 plan was designed
8 to replace the 1984 Hollister RMP, with the exception
9 of the Clear Creek decision.

10 In 2009, CCMA draft RMP EIS, this will replace
11 the '84 Hollister RMP decisions for Clear Creek as well
12 as all of the subsequent amendments and route
13 designation, 2006 route designation. It incorporates
14 findings from EPA's May 2008 Asbestos Exposure Human
15 Health Assessment for Analysis for Alternatives. And
16 this will establish the goals, objectives, and
17 management actions that address current issues,
18 knowledge, and conditions for Clear Creek.

19 Thirty years of asbestos information, this is
20 sort of the what-we-know part of the discovery here.
21 We know we have high concentrations of chrysotile
22 asbestos. There was mining in the area. There's pure
23 forms of it, deposits. We know they're there. We have
24 studies that have verified that the concentrations are
25 high. We have a small percentage of amphibole asbestos

1 that was out there that was documented by BLM in
2 the '90s with our own employee air sampling and was
3 reaffirmed with the EPA study. Both are known human
4 carcinogens. And in your packet I placed a
5 North Carolina epidemiology study on factory workers
6 where they showed that the chrysotile, longer fiber
7 chrysotile had a direct link to increased cancer
8 occurrence in that working population. And it was like
9 from about a 1940 sample through the 1970s is what they
10 were looking at. Again, this was industrial, you know,
11 working in an industrial environment.

12 The chrysotile concentrations at Clear Creek are
13 sufficiently high and of the length and width ratio to
14 be of concern. The asbestos fibers that EPA measured
15 and counted for data that they placed into the risk
16 models was only those fibers that had the width and
17 length ratio dimensions that would be considered to be
18 of a concern for being a carcinogen.

19 Now, the risk models that have been run out
20 there indicate that days, and in some cases a day of
21 exposure are sufficient to increase public's lifetime
22 risk to cancer. Now, that days and a day, that risk
23 model is based on 30 years. That's like one day for
24 30 years or multiple days for 30 years. That's how
25 those risk models work. It's not like you go out there

1 for one day that it's going to blow up the risk model.
2 That's what that is. I just need to make sure that's a
3 30-year model. I'll emphasize that again when we get
4 to it.

5 The season of year alone cannot predict the
6 airborne asbestos concentrations. That was determined
7 by the EPA report. It reaffirmed BLM's 1992 report,
8 which is essentially PTI, which was the contractor
9 there, they ran a statistical analysis on that, and
10 they said you really can't predict during the season as
11 to when you're going to be exposed to asbestos.

12 So epidemiology, this is what we don't know.
13 There is no epidemiological data available on human
14 exposure to asbestos in the Clear Creek Management
15 Area. There's no studies out there. There is no
16 reason why somebody would have done studies out there,
17 unless the mining companies have done it, and they have
18 not. But there has been nothing done on recreation
19 folks.

20 Infrequent or episodic exposures are not
21 characterized in any existing epi studies that we have
22 out there. So that's getting at that I, as a
23 recreationist, go out there and recreate two or three
24 days a year or five days a year and then I'm not out
25 there anymore. Whereas, all of the epidemiological

1 studies, they look at somebody being out there eight
2 hours a day, five days a week. That's for a number of
3 years, that's what they're looking at. So that is the
4 thing that we don't know.

5 So risk models -- this is the unabridged
6 version, as best I can here. Risks are estimated based
7 on 30 years of exposure. By design, risk models tend
8 to overestimate the cancer risk when we're talking
9 about risk models for cancer here. So it's a tool for
10 a risk manager to use in the decision making. It's not
11 an absolute. It's a model that helps us make decisions
12 on how much risk. Normally, it's for the employers,
13 people who are in business. It allows them to make
14 decisions on how much risk, what procedures, what SOPs
15 to put in place to keep their employees safe.

16 So for us, we're using this EPA's risk model,
17 which is the integrated risk information system. That
18 is their risk model that they use, and that's based on
19 just average Joe Blow adult. That's who they're basing
20 that on. The Office of Environmental Health Hazard
21 Assessment, Cal EPA, DTSC, they base theirs on the
22 average woman, and I'll get into the differences on
23 that.

24 So for now, on this risk assessment or this
25 slide here, don't worry too much about the

1 alternatives. This is in the EIS, and this is the
2 alternatives on the bottom. But don't worry about that
3 too much right now. What I want you to focus on is the
4 acceptable risk range is the area here from 1e04 to
5 1e06. So what we're looking at is this is where EPA's
6 under its guidance under CERPA says that -- if you're
7 being exposed at that level, it's considered acceptable
8 by the government.

9 And the other thing to focus on is that five
10 days and 12 days and the difference that you see.
11 Again, it gets down to the concentration of the
12 exposure to asbestos and the amount of time that you're
13 exposed. That's what's going to raise it up.

14 COMMISSIONER VAN VELSOR: I wasn't quite clear
15 on which area of the chart is considered acceptable
16 levels of exposure by EPA?

17 RICK COOPER: So right where the pointer is
18 there, that's acceptable. Of course, it's acceptable
19 clear down in here. They consider this to be an
20 acceptable risk range from one in a million of getting
21 it to one in 10,000. And so one in 10,000 is depicted
22 by 1e04; one in a million, 1e06. If you're down in
23 here, it's fine. They don't even consider that risk.
24 So if you're up in here, say this was maybe a shoe
25 factory and maybe they had stuff coming out over a

1 neighborhood or residential area, then EPA would take
2 action against that company because they're exposing
3 the public to unacceptable risk range. And that's
4 based on five days a year of exposure.

5 If you go down to 12 days, then you can see the
6 little bars up on top just a little bit all the way
7 across. Here again, here is the acceptable risk range
8 down here, and then these two boxes up in here would be
9 where EPA would normally take action to remediate the
10 problem.

11 So this is the state's OEHHA model, and again
12 this shows seven to eight times more risk just based on
13 the fact that it's -- again, as I said, risk models are
14 designed to overestimate. The state uses one that's
15 based on women, an average woman, and the idea that the
16 average woman is going to live longer than the average
17 male or live longer than the average adult, when you
18 look at the life tables. So a woman exposed to
19 asbestos over time would have a better chance of having
20 asbestos-related issues or a higher risk of having
21 problems in the future. So that's sort of what that
22 state DTSC model indicates here. And I'll come back to
23 these again when we talk about alternatives.

24 So the EPA study and BLM decision, this gives
25 you a quick little context. In 2004, EPA began to

1 gather data for its human health risk assessment. Data
2 indicated that based on that information that they
3 gathered in September of that year, information
4 indicated that the risks were high in terms of asbestos
5 exposure, high asbestos concentrations. So in 2005,
6 BLM closed the serpentine ACEC during the dry season
7 period based on EPA initial findings. There was
8 litigation. OHV groups contested that BLM should not
9 rely on EPA or its findings in regard to making land
10 use decisions out there. IBLA upheld BLM's decision,
11 and the closure stayed in place.

12 In May of 2008, EPA completes its human health
13 risk assessment and released it to the public. In
14 May of 2008, based on those findings, BLM closed the
15 serpentine ACEC year round until such time as we could
16 complete the RMP EIS and come up with final decisions
17 for that area.

18 So the current planning effort, we're at the
19 public scoping period, September 6, 2000 through
20 June 21st, 2008. We extended that scoping period
21 because we anticipated EPA was going to have the report
22 done in fall 2007. They did not come out with it until
23 May of 2008. We extended the scoping on into June.

24 The draft CCMA RMP EIS was released on
25 December 4th, 2009, and we've had public meetings in

1 January and February. We held three public comment
2 meetings in Coalinga, Hollister, Santa Clara, and this
3 last Monday held a Hollister socioeconomic workshop to
4 get comments from a lot of the business leaders and
5 business community. And public comments are due on
6 March 5th.

7 So what does the CCMA RMP need to do. I think
8 we're going to have to demonstrate that we minimized
9 asbestos exposure to the public. We're going to have
10 to reduce asbestos emissions into the water and to some
11 degree the air, although the air hasn't been a big
12 issue so far other than locally; designate the types of
13 recreation use, the opportunities that would be
14 available; protect sensitive natural and cultural
15 resources; provide guidance for mineral and energy
16 development; and make other land use authorizations and
17 land tenure adjustments as needed.

18 In addition, just to kind of focus on things
19 that we'll need to do, we're going to be able to
20 demonstrate that we can meet the state's soil loss
21 standards on road and trail systems, which has been a
22 challenge for us in that environment. And then we're
23 also going to have to be able to develop a sustainable
24 and economically feasible and controlled route system
25 in the area. That's going to need to be done in order

1 for to us manage in that site.

2 So the range of alternatives, Alternative A
3 represents the no action alternative and would
4 effectively reaffirm the current management under the
5 1984 Hollister RMP with the amendments. So all of
6 those things that we've done, which is just effectively
7 having recreation out there just like we've had it up
8 until the closure.

9 Alternative B, it maintains multiple-use
10 opportunities in Clear Creek and considers multiple
11 mitigation measures to protect. So what we're looking
12 at there is managing time, you know, almost have to be
13 a permit type system where you would control time in
14 terms of -- not time in terms of the day, but in terms
15 of number of days that people could actually go out and
16 utilize the site. We would look at different
17 mitigation measures, if there are hardening
18 opportunities that could maybe make campgrounds safer,
19 less exposure, those types of things. In some cases we
20 may look at hardening major thoroughfare roads through
21 the area. It would be one of those things if you go
22 with Alternative B, there would be a number of costly
23 measures that would have to be put in place to attempt
24 to see if you can control the amount of emissions that
25 take place while recreation occurs.

1 Alternative C, this kind of stemmed out of some
2 ideas that we got in scoping. This was an idea to,
3 number one, make an age requirement so it's directly
4 adults going out there, people over 18. The other
5 thing was to look at maybe changing the vehicle use
6 type out there. Really look at maybe just having
7 motorcycle and single track trails, maybe that would
8 help mitigate exposures; and then also, again, look at
9 those same other more like engineering type exposures
10 that you might put into place.

11 So most of the alternatives, as I go through
12 here, we're really looking at administrative controls.
13 When you get into risk management, you're dealing with
14 administrative remedies, you're dealing with
15 engineering remedies, and then you're dealing with PPE.
16 So a lot of what we put into these alternatives were
17 things that we felt we could do and sustain
18 administratively.

19 Alternative D, it emphasizes vehicle for
20 non-motorized recreation opportunities inside the ACEC,
21 and it would look at new OHV recreation areas on the
22 outside but still within the Clear Creek Management
23 Area.

24 Alternative E, which was a conservative
25 alternative I put forward, allows vehicle touring in on

1 an 11-mile corridor within the ACEC, but it emphasizes
2 non-motorized recreation opportunities elsewhere in the
3 Clear Creek Management Area.

4 Alternative F, limits public use in the ACEC to
5 non-motorized access by permit only. So Alternative F
6 is really looking at just pedestrian use out in there.
7 You would hike into the area from outside of the ACEC
8 area. You could drive into certain portions of the
9 Clear Creek and then hike into the ACEC.

10 And then Alternative G reflects the current
11 closure situation, which minimizes public health risk
12 by effectively denying access.

13 On this, this is same slide that we were looking
14 at earlier, but, again, what it depicts under each of
15 the alternatives where we put in those administrative
16 controls is that this is the existing situation in
17 terms of risk based on the EPA report. Now, we did do
18 some modifications in terms of our scenarios. We
19 reduced the number of hours of ride time on
20 Alternatives B, C, and D. So the riding times on B, C,
21 and D are lower than the riding times on Alternative A.
22 And so we worked with the Daniel Strock of EPA to
23 reduce those. And, again, that was based on scoping.
24 They said the scenarios that we had developed in the
25 EPA report were a little too long on hours for riding

1 time. So we reduced it down, and we still had risk,
2 but it did drop the risk. And so, again, it really
3 points to the fact that time of exposure and dose of
4 exposure are the keys in terms of your risks out there.

5 So as we go across to B, you can see B and C,
6 not much different between the two alternatives there,
7 effectively telling us if you're riding out there. And
8 the same thing is true under these alternatives, under
9 these uses of day use, hiking, and weekend hunting
10 where you do actually drive to points before you do
11 that, you can see any of the vehicle activity that's
12 dust generating is creating a potential risk factor for
13 the public in there. Again, you look down at days,
14 again that really tells you the time. Again, more time
15 that's involved, then your risks go up for each of
16 those things, and you go up into effectively the risk
17 range where EPA would remediate.

18 So then if you take this to the next slide and
19 you go to the state's standard of risk assessment, then
20 your risks are exponentially higher, you jump up seven,
21 eight times again. So your risk range is high all the
22 way across for virtually every activity. In your
23 packet, I included the executive summary of EPA's
24 report, I also included the DTSC comments to our
25 administrative draft, and they have comments by

1 alternative in there if you want to take a look at
2 that, as well.

3 So the next steps on the plan schedule is to
4 prepare the proposed RMP final EIS. We take the public
5 comment analysis and responses, and we respond,
6 incorporate those things that look like it would help
7 us make the draft better -- make the plan better, I
8 should say. And that target date right now is
9 September of 2010. That's what my charge is.

10 Public protest period is 30 days. This would be
11 after the September 20th date, and then there's a
12 Governor's consistency review that occurs sort of
13 concurrent with that for 60 days, and then we would be
14 looking at a record of decision by January 2011. And
15 then obviously if there's appeal, then we would have
16 Interior Boards of Lands appeal maybe going through
17 that process.

18 So for over 30 years, BLM has managed in this
19 recreation environment, and BLM has attempted to manage
20 the site intensively in an effort to meet objectives
21 set forth in our land use plans both for recreation and
22 protection for measures. Those efforts have been done
23 at a considerable expense, and to some degree for some
24 of the actions with limited success. BLM has not been
25 able to demonstrate an ability to minimize risk to the

1 public or reduce asbestos emissions. We've had some
2 success in protecting endangered species habitat, but
3 it had difficulty in meeting the requirements of the
4 state's soil loss standards for this area.

5 So with this in mind, BLM during this planning
6 cycle, as we've done in two previous planning cycles,
7 will consider if OHV use is a sustainable activity in
8 the area. We've done this for 25 years, and each of
9 the planning cycles we've had, we've had to take this
10 charge on of examining and determining whether or not
11 OHV use can still be managed in that area. So we're
12 going to be doing it again, and it's going to be a
13 difficult task to work through the process, but that's
14 the charge I have. So any questions?

15 CHAIR WILLARD: Yes, I think we will have some
16 questions. Thank you for the presentation. I know
17 that a number of organizations and probably many, many
18 individuals, myself included, have asked for an
19 extension. Given that the area is closed to use, why
20 won't the BLM grant an extension on the comment period?
21 What harm is there in giving the public another 60- or
22 90-day period to review what is a very thick, detailed,
23 complex document? I'm just really surprised that BLM
24 has not given an extension, and I would like to
25 understand why.

1 RICK COOPER: Under our regulatory guidance, we
2 are supposed to give up to 90 days. We've done that.
3 We do have a number of land use plans going on
4 throughout the state. It is a cost to the agency to
5 continue and delay plans. You know, we have our orders
6 from Washington, and I have my orders from the state to
7 try to meet these deadlines and these time frames.

8 I think an order for me to meet the
9 September time frame, you know, I need to conclude the
10 comments in March in order for us to move forward. So,
11 you know, certainly I will carry forward, and I have
12 carried forward, and a number of people have made sure
13 that my state director and my director know that they
14 want additional 90 days. I mean they know that. And
15 I'm sure we'll have a discussion regarding that. But
16 at this time, I hope to stick with the March 5th date
17 in order to meet our time frames that we've got set
18 forward for us.

19 CHAIR WILLARD: Well, I personally think that's
20 a shame because I can't see any reason why, how the
21 public's best interest isn't served by at least giving
22 a little bit more time for the public to digest and
23 provide comments. So I mean the cost issue relative to
24 the entire federal budget, it can't be worth talking
25 about, but that's my opinion.

1 COMMISSIONER LUEDER: I have a question on your
2 model for comparison of risk. How many hours of
3 exposure was the standard, the total miles? I heard at
4 the Santa Clara meeting it was based on a fairly large
5 number of miles of exposure in one day.

6 RICK COOPER: They did not go on miles. They
7 had a route that they rode out there when they did the
8 sampling, but the risk model we took in hours of
9 exposure while on the site. And I don't know, I would
10 have to pull the EIS out and tell you what the hours
11 are on the scenarios.

12 But the scenario for the EPA scenarios, I think
13 we were up around 11 hours of riding. It was like six
14 hours one day and maybe five the next or -- you know,
15 it was a high number, and it was a higher number than
16 most of the people thought that they would ride on a
17 weekend. And I think we pulled it down to a four and a
18 three so more like seven hours. So don't quote me on
19 that, but it is in the EIS. It says what the hours are
20 that were used for the calculation. But I think it was
21 like a weekend rider would be like four hours of riding
22 one day, three hours of riding the second day.

23 COMMISSIONER VAN VELSOR: I'm curious what the
24 Bureau of Land Management liability might be if you
25 were to accept an alternative that actually

1 demonstrated a risk of exposure for cancer, and someone
2 got cancer and decided that because BLM said it was
3 okay for me to ride here, then they're liable for my
4 cancer? Is the BLM in any way liable for making a
5 decision that long term would result in cancer?

6 RICK COOPER: You know, I guess the best way to
7 characterize that is solicitors say, you know, under
8 our tort claim that their opinion would be, yes, there
9 would be some liability. Now, the fact that it's a
10 well-known site for asbestos, the fact that there are
11 other places that they could have gotten exposure to
12 asbestos is sort of their opinion that we might not
13 feel the full burden of liability associated with it,
14 but indeed they felt there would be liability. But to
15 say how much, up to the judge.

16 COMMISSIONER SLAVIK: Kind of following along
17 with that, my understanding is there is no documented
18 evidence of any people actually having cancer
19 attributed to this site, given the fact that they've
20 been recreating there for 30, 40 years.

21 RICK COOPER: Correct, that's what I said.
22 There is no epidemiological study whatsoever about
23 people recreating in the area and getting cancer, so
24 that's right.

25 COMMISSIONER SILVERBERG: Rick, so you mentioned

1 that this study is more on the conservative side of the
2 equation by far, that's how you sort of presented it to
3 us.

4 RICK COOPER: I said the Alternative E, was a
5 more -- are you talking about the risk assessment?

6 COMMISSIONER SILVERBERG: The risk, yes.

7 RICK COOPER: Risk models, normally they
8 overestimate the risk. It doesn't mean it's a for sure
9 that they overestimated. The EPA scientists clearly
10 said it could have been an underestimation, an
11 overestimation. It overestimates the risk for cancer.
12 There's also other things that you can get from
13 exposure to asbestos, asbestosis, pleural plaques,
14 other lung-related disorders that you can get. And
15 this model does not do any prediction on whether or not
16 somebody would get that. Asbestosis is actually a more
17 common result of high concentrations of exposure to
18 asbestos, more so than cancer.

19 COMMISSIONER SILVERBERG: In this case, the
20 asbestos is a natural-occurring asbestos versus the EPA
21 standards for it in the workplace are going to be an
22 asbestos that's gone through some sort of manufacturing
23 process, and there's --

24 RICK COOPER: Well, there's no difference in the
25 asbestos fibers that come into those air filters as

1 they -- as the samples that they take from those air
2 filters, the fibers are the same. Asbestos, there is a
3 serpentine rock formation. If you build roads on it,
4 you drive on it, you pulverize the material, the fibers
5 come up. The fibers are microscopic, you can't see
6 them. So those fibers are increased.

7 And in this particular area, there are
8 concentration levels similar to what you would
9 experience in a workplace. So it's not so much a
10 processing of the fibers, just gets them airborne. And
11 in Clear Creek it's vehicles are the things that are
12 getting them airborne. In a factory it may be whatever
13 they're building or machinery they're running through
14 is getting it airborne. So there is really no
15 difference in terms of there is not a manufactured
16 fiber, per se.

17 COMMISSIONER SILVERBERG: In terms of the study
18 itself, is the BLM pretty much hanging their hat on the
19 EPA study?

20 RICK COOPER: No, I think what we're looking at
21 is just this building of data over the years. You
22 know, you look at the UC Berkeley data. You look at
23 what was described by industrial hygienists in '85 by
24 Cal-OSHA. You look at studies that DTSC has done in
25 the state in other locations. You look at what we did

1 specifically in Clear Creek in 1992, and then you look
2 at what the EPA study results came out with in 2008,
3 and it's using all of that information base, is what
4 I'm going to have to weigh decisions on how we move
5 forward.

6 COMMISSIONER SILVERBERG: One other thing about
7 the folks that have been employed there, working there,
8 I mean do you have staff that's there seven days a
9 week?

10 RICK COOPER: Not seven days a week. Well, I
11 should back up and say, yes, when we are actively
12 managing that site for intensive recreation, OHV
13 recreation out there, we've had people out there over
14 120 days working that environment. So we have had
15 people out in there for probably the last -- that
16 intensity of management has probably really come on
17 since 1999.

18 COMMISSIONER SILVERBERG: And have there ever
19 been any cases of any ill effects from asbestos to the
20 staff?

21 RICK COOPER: No, we met nothing to date.
22 Asbestos is a latent. You get exposed to it, you're
23 probably not going to have problems with it until 20,
24 30 years down the road. We medically monitor all of
25 the employees that go into that area. They have x-rays

1 conducted. They have physicals done on at least an
2 every other year basis. We decon. We just finished
3 building a \$2 million decon facility down there. For
4 any employees that work in that area, they have to come
5 out, we have to wash the vehicles, clean the vehicles
6 out. Employees change clothes and shower, and go home.
7 The whole purpose of that is try to keep them from
8 tracking stuff home to their homes, to the office.
9 That whole process started in 1999 when BLM was
10 required to work in that area as part of the SuperFund,
11 being a SuperFund site, and so we were required to
12 build a decontamination facility.

13 Our old one was starting to fall apart. We just
14 built a new one. That's also a cost associated with
15 working in that area. I mean it's an hour-and-a-half
16 drive down, 30 to 45 minutes to go in and get on your
17 work clothes that stay at that site. You go in and you
18 work at the site. And in some cases you've got to
19 drive an hour in to get to where you need to be to
20 work, drive out, you decon, and then you drive home.
21 So a lot of cases in a ten-hour day, we may get four
22 hours of actual on-the-ground doing the work, four to
23 five hours. It's a difficult site to work in with all
24 of the requirements that we have on us there.

25 CHAIR WILLARD: Commissioners, any other

1 questions before we open it to public comment?

2 COMMISSIONER FRANKLIN: Just a quick question
3 for you, as BLM, do you have an alternative that you
4 are supporting?

5 RICK COOPER: The Alternative E is the preferred
6 alternative that I've put forward, which is no OHV use
7 in the ACEC or in the surrounding area. And it would
8 effectively use a permit system for people to actually
9 go through on a 11-mile route that parallels a road
10 system that we're going to have to have in place for
11 communications sites in the area. And it also
12 parallels stuff for -- touches pieces of property that
13 are private. We're still going to have to allow for
14 private landowners to go to their property. We're
15 going to have to allow for mining claims to get into
16 their property. We have these right of ways, these
17 communication towers up there, PG&E, San Bernardino
18 County Sheriff, that we're going to have to.

19 So I'm hoping that maybe on that alternative
20 that we can work with stakeholders up in there to
21 create a route that we would share in responsibility
22 for taking care of and maybe improving to a point that
23 public access on there, we can reduce exposures to the
24 public back to an acceptable level.

25 COMMISSIONER FRANKLIN: So no motorized, am I

1 reading that correctly? There's no motorized
2 recreation or is it mechanical recreation?

3 RICK COOPER: No motorized recreation with the
4 exception of the 11-mile corridor.

5 COMMISSIONER FRANKLIN: Mountain bikers,
6 equestrians?

7 RICK COOPER: Mountain bikes and equestrians,
8 no, at this time. We'd have to do some sort of related
9 study to see if -- you know, I would think dust from a
10 bicycle in an area would have very similar type --

11 COMMISSIONER FRANKLIN: Yes, if you've ever been
12 backpacking with a pack train in front of you, you know
13 they kick up some dust. This says no motorized, that's
14 why I'm asking.

15 RICK COOPER: We didn't specifically say, but
16 maybe that's something that we need to clarify. In our
17 discussions among staff, we pretty much decided that
18 we're going to have to -- before we would allow
19 anything that wasn't considered already in an
20 activity-base study, we're probably going to have to do
21 that before we would allow any other activities like
22 that to take place. Because we've only looked at
23 pedestrian and motorized type uses out in there,
24 camping and stuff. So, yes, we would have to do
25 sampling before I could allow it under that

1 alternative.

2 CHAIR WILLARD: I notice that within the
3 management area, there's areas that are not in the
4 serpentine area, and so is there any OHV opportunity in
5 an area that is perhaps not within the EPA-designated
6 area?

7 RICK COOPER: Now, the maps that you have in
8 your packet, they actually have these areas shaded. So
9 like this area here is the Cantua area, and it's
10 shaded. This area down in here is the Condon Peak
11 area, and it's shaded. Then you have a Tucker Mountain
12 piece, it's in here, it's shaded. And then you also
13 have a San Benito piece that's right on the divide
14 here.

15 So the only other place, like under
16 Alternative D, we're looking at this maybe expanding
17 the Condon Peak area to allow for ATV use primarily
18 associated with hunting, maybe four-wheel drive use in
19 there under Alternative E.

20 Under Alternative D, which is the alternative to
21 not have OHV use in here, but then to look at
22 alternative areas on the outside, Alternative D,
23 looking at about 80 miles on route on both sides here
24 combined, 86 miles I believe it was. And that was
25 based on space available, acres, and where we think we

1 could reasonably put a route system in.

2 We don't have any routes identified over in this
3 area in here. This area butts up against the area that
4 the state looked at acquiring. We know there is
5 asbestos that has drifted down in these drainages from
6 erosion. It's not part of the actual serpentine
7 formation, but certainly there is asbestos down there.
8 So we haven't identified any routes there yet. That
9 would have to make the decision you are going to use
10 it, and then go look at it and figure out how much you
11 could use it in there based on that.

12 COMMISSIONER SLAVIK: I've been kind of
13 struggling with this, I guess I've got to say it.
14 We're in this conundrum. OHV recreationists, we ended
15 up in an area that was undesirable for use for any
16 other kind of recreation, for the most part. We
17 basically tend to go to the garbage dumps essentially
18 because nobody else wants to be there, and we can be
19 there without bothering people. That's putting it
20 simply. So now we're in a situation where we're faced
21 with this probably no win situation. And I've only
22 been there once, but it seemed to be most of those
23 trails that you're looking at, they were user created
24 trails; am I right or wrong? Is there many actually
25 built trails there?

1 RICK COOPER: The trail system up there is
2 really a combination of old mining, people blazed in to
3 do mining. The county road system that you see there
4 was actually something that was improved upon by
5 people -- by the miners who were logging. The new
6 Idria Mine, which is an old mercury mine right in here,
7 a lot of the logging that took place up at this area,
8 used to be part of the Monterey National Forest for
9 nine years. But they logged this area to create
10 timbers and things, fuel road for this Idria Mine
11 operation here. There was also mercury mines all
12 throughout this area. There are cinnabar formations
13 all over the place, so it's a lot of mercury. So a lot
14 of it was mining roads, and then just from anecdotal
15 information with clubs like Timekeepers and Salinas
16 Ramblers, a lot of those guys did build single-track
17 trails in that country. How much, I have no idea.

18 COMMISSIONER SLAVIK: It seems there was a lot
19 of single track, pretty much single user track trails.
20 Where I was going with that, there's got to be a
21 tradeoff here somewhere where if we're pushed out of
22 this place, why can't there be some consideration into
23 building a trail system in those areas that don't have
24 the serpentine soils and don't have the asbestos
25 concentrations and give the public back something that

1 they have spent a lot of money on and a lot a time over
2 the years in recreating and actually being pushed off,
3 like Mr. Waldheim was saying, back to BLM's place and
4 Jawbone and overusing another area there. It seems
5 like there's got to be some sort of tradeoff here
6 somewhere.

7 RICK COOPER: Certainly, you know, I would like
8 to hear from the Commission, like to certainly hear
9 from the state, the Division as to, you know, what they
10 think can be done as far as outside. A lot of comments
11 that we are getting are effectively just comments,
12 don't take us out of this area. A lot of comments
13 we've gotten so far haven't suggested other
14 alternatives, just suggested that the EPA is wrong, and
15 that's it.

16 So certainly anything that you guys want to
17 bring, that the Commission would want to bring forward
18 to this, we would be very interested in that.
19 Obviously, as you go outside the area, just as you're
20 saying, there are other multiple uses out in there and
21 we would have to manage and balance that.

22 COMMISSIONER SLAVIK: The 63,000 acres that you
23 talk about, is that the entire area in the green?

24 RICK COOPER: The entire area in the green,
25 that's about 63,000 acres of public land in the green,

1 10,000 acres of private in there.

2 CHAIR WILLARD: Of the 63,000, how much is
3 within the red?

4 RICK COOPER: 31,000.

5 CHAIR WILLARD: About half of it?

6 RICK COOPER: Yes.

7 COMMISSIONER SILVERBERG: Rick, you're saying
8 that you prefer Alternative E. I'm curious why you
9 didn't prefer Alternative D, which is what
10 Commissioner Slavik was just mentioning?

11 RICK COOPER: Well, one of the reasons is the
12 asbestos possibilities on this east side is high in
13 those drainage.

14 The other thing is on this edge over in here, we
15 currently have a lot of livestock grazing. We also
16 have a lot of deer hunting that takes place in this
17 area. Probably a predominant amount of the deer
18 hunting is over in this area and in this area. While
19 deer hunters would probably like to see some ATV use
20 out in there, normally they're commenting to us, you
21 know, they don't want to see motorcycles and they don't
22 want to see an OHV park in an area where they hunt.

23 So with that in mind, I'm just looking at an
24 opportunity where at this point in time in BLM's time
25 is make a break from OHV use in this area and try to

1 see what we can do to minimize exposures to people in
2 this with a very limited access to it, and then
3 continue managing, as we have been in these areas.
4 Existing management practices in those areas have been
5 good for the stakeholders that we have there.

6 COMMISSIONER SLAVIK: The rest of that brown
7 area that's not encompassed in the green, is that
8 federal land?

9 RICK COOPER: You mean outside the green?

10 COMMISSIONER SLAVIK: Why can't those lines be
11 pulled up there for your --

12 RICK COOPER: Oh, you mean move the green lines
13 out? I haven't really looked into the history of why
14 they developed these lines, so I don't know that I can
15 adequately answer your question on that. I think what
16 they did is they tried to stake out an area around the
17 serpentine formations that would capture the asbestos
18 that might be bleeding off the site because there are
19 land flows off in this Condon side where you have low
20 concentrations of asbestos. I'm not sure exactly why
21 this particular boundary exists like it does. I can't
22 answer the question on that.

23 But as far as moving them out, these were
24 covered under the Hollister 2007 RMP and decisions were
25 made on those already. So any type of change in this

1 line, we would have to be doing amendments as to how we
2 would do the land use on it.

3 COMMISSIONER SLAVIK: All of the options need to
4 be on the table there, wouldn't you agree?

5 RICK COOPER: Well, they are on the table for
6 this plan. You know, all of the options are out there
7 for that area. Now, you're talking to me about
8 spreading the umbrella, I can't really do that under
9 this EIS. I can't spread it out any further.

10 COMMISSIONER SILVERBERG: Rick, just one more
11 thing. So the serpentine soils are the issue, that's
12 where the asbestos lies, correct?

13 RICK COOPER: Serpentine formation is hundreds
14 of miles deep.

15 COMMISSIONER SILVERBERG: Then it reveals itself
16 up on the surface in certain areas?

17 RICK COOPER: Yes, that whole area in there is
18 effectively serpentine.

19 COMMISSIONER SILVERBERG: If I'm not mistaken,
20 some parts there are already closed that are --
21 San Benito Preserve or San Benito something.

22 RICK COOPER: There's San Benito evening
23 primrose, which is found on sediment-type benches along
24 creeks and drainages like San Carlos Creek, Clear
25 Creek, San Benito River, sort of like where things

1 wash, create a beach area deposition, so those areas
2 are protected.

3 COMMISSIONER SILVERBERG: But there's a natural
4 area out there. That's what I am referring to, out
5 there right now there exists some areas that have been
6 fenced off and not being used for recreation, correct?

7 RICK COOPER: Correct. It should be depicted on
8 the map in there that you have, the research natural
9 area is on this ridge top.

10 COMMISSIONER SILVERBERG: So I guess what I'm
11 saying, it seems you've already designated some areas
12 out there. I didn't see on any of those alternatives
13 that you would actually go through and designate the
14 serpentine spots as a non-riding area, in other words,
15 take out the areas that have the greatest risk.

16 RICK COOPER: The work in this area is not at a
17 point to where you can sit there and map out every
18 little inclusion of non-serpentine. There may be a
19 soils map that we can use, but I mean -- so I guess I'm
20 contradicting myself. There is probably a soils map
21 out there to tell us what we have in there, but
22 predominantly everything inside this red line, there is
23 more serpentine than anything else. There could be
24 small inclusions of Upland type and Franciscan type
25 soils, which is not an ultramatic soil. It's not very

1 much. And that was a geologic map that was put in
2 place there.

3 And so because it is such a pure form serpentine
4 site, that's why you have mine locations that were done
5 off of this particular Coalinga operation site where
6 they pulled asbestos out of mines up in here. You have
7 this mine operation here. You had another mine
8 operation here on BLM land. They have pure forms of
9 asbestos or serpentine on there. It's pretty uniform
10 across the site based on all of the samplings.

11 COMMISSIONER SILVERBERG: Lastly, regarding
12 Commissioner Slavik's comments, we're not going to see
13 an Alternative F to this equation that's going to open
14 up if -- well, Alternative D actually does mention that
15 there would be other areas, but it sounds like that
16 that really is not going to be considered from what you
17 said.

18 RICK COOPER: It's going to be considered. It's
19 going to be considered with all of the alternatives.
20 It will get full consideration. And certainly we need
21 comments to that effect that that looks like an
22 available -- it looks like a reasonable alternative to
23 other interests. We would --

24 But, yes, all of the alternatives are going to
25 get a reasonable shake, and it may not be exactly. It

1 might not be exactly Alternative D or it might not be
2 exactly Alternative E that ends up being the final
3 proposed plan. It may be pieces of those things that
4 we pull together based on what are best in the public
5 interest and what we can manage. So it could be a
6 combination of things, so it's just not like
7 Alternative E, that's it. Right now we might add some
8 things onto it. It could be Alternative E with
9 recreation with the use area outside, as well.

10 CHAIR WILLARD: Okay. Thank you for the
11 presentation. We're going to take public comments now,
12 and then the Commission will discuss it and see if
13 there is something we want to do. So I would ask the
14 public please to keep your comments succinct and to the
15 point, and please stay within the allotted time.

16 JOHN STEWART: John Stewart, California
17 Association of 4-Wheel Drive Clubs. Just a couple of
18 comments, going through the presentation, one thing is
19 that the BLM cited a model based on a 30-year study and
20 yet stated that model could not be correlated to
21 anything in actuality. One of the things that -- any
22 time you're dealing with a model, a model is just a big
23 assumption, and models are usually discarded when they
24 can't be correlated with reality. So somewhere along
25 the line here they're lacking a lot of information and

1 making major decisions based on the lack of information
2 which is problematic.

3 And then when you look at the range of
4 alternatives, you know, looking to where the green line
5 is that outlines the Clear Creek Management Area, and
6 stating that your decision is going to impact a lot of
7 recreation opportunity and yet offer an opportunity
8 somewhere else and yet it is not clearly identified,
9 nor is it looked at, part of one of the alternatives
10 should have included the fact they would extend back
11 into the Hollister plan and look at the adjacent lands
12 for developing alternative trail systems in exchange.
13 That should have been part of an alternative that BLM
14 would have looked at and included initially. It should
15 not have been left to the public to ask for that to be
16 included. Thank you.

17 DAVE PICKETT: Dave Pickett, District 36,
18 Motorcycle Sports Committee. Okay, one thing I think
19 that the Commission should know, and I think the timing
20 here is 2004, there was a BLM public meeting at which
21 time, by consensus, the official start date of real OHV
22 was 1946 based on information from a lot of people who
23 live in the area, so that puts us at 64 years.

24 The manager, Mr. Cooper, had indicated about
25 potential liability, I think was one of the questions

1 from you, for the future. That to me is a moot point.
2 Because when this is determined as unsafe for OHV
3 activity, anybody that's ridden to the day it's closed
4 back, BLM is subject to liability. I mean that's
5 pretty straightforward. There is enough TV commercials
6 on mesothelioma.

7 With that, we have another issue El Dorado
8 County that was not discussed here and brought this up,
9 they are having serious issues similar to this. And if
10 I've got my number correct, there are about 44 counties
11 that have this state rock within. My concern is going
12 to be precedence, could go to other places where OHV
13 activity that takes place as any kind of asbestos
14 strain that's in it.

15 Now, one thing that's not been brought up is
16 every day we have warnings about cancer-causing agents.
17 Everybody in this room buys gasoline, right? You're
18 warned, don't touch it, you can die, you're going to
19 get cancer, okay? These damn things, warning, you have
20 your choice. You can go buy them, and you can smoke
21 them, and you can be an idiot like me, but you're an
22 adult, you're being warned. Difference is I can still
23 buy them. I'm paying taxes on them. Is that a
24 possible reason? Gasoline has taxes on them.

25 We could put warning signs at this facility

1 and/or waivers or combination of both, all right? It's
2 happening everywhere else. If this is truly a
3 wasteland and it's not worth anything, District 36 will
4 buy it for \$10 an acre, and I'll write you a check
5 today. I think I made my point. Thank you.

6 DON AMADOR: Don Amador, Blue Ribbon Coalition.

7 I want to start off by saying that I've got an
8 endorsement from my good friend at PEER who said she
9 wants to see me and other OHVers continue to recreate
10 at Clear Creek, so I wanted to thank her for that vote
11 of confidence.

12 I think it's important for us to just step back
13 and look at the big picture, as Commissioner Willard
14 said at one of the public meetings, the state OHV
15 program, we've spent somewhere around \$9 million over
16 the last 25 or 30 years in the management of OHV
17 recreation at Clear Creek. It was mentioned, too, that
18 this a destination recreation site. We also heard
19 testimony earlier today that the people who used to go
20 to the 70,000 acre facility are now going and impacting
21 Jawbone and other places.

22 So that begs a question. Why can't we take a
23 little bit of extra time? We're not just talking about
24 a small park here where a couple of families go once in
25 awhile. We're talking about one of the largest

1 destination OHV areas on the west coast.

2 And as it's been brought up a little bit
3 earlier, too, some questions were asked, well, why did
4 the BLM in their 2007 plan RMP look at some other OHV
5 areas. Well, Blue Ribbon and myself, we submitted
6 comments to the BLM in 2007 bringing up specifically
7 the fact that Clear Creek might be impacted by future
8 environmental studies and that they needed to look for
9 OHV recreation outside of Clear Creek, whether Clear
10 Creek stayed open or closed or whether the population
11 continued to grow and we needed to decide to find other
12 OHV areas. Well, they responded by denying any new
13 future potential OHV recreation in that 2007 plan. So
14 that's your answer. Have they looked, yes, and they
15 made a decision no.

16 Secondly, it's been brought up, the EPA risk
17 analysis has been pointed out a number of times by
18 myself and others that the EPA did not know that they
19 were staging through commercial mill sites, which
20 contain the commercial amphiboles. We found out at the
21 Santa Clara meeting that the riders weren't always
22 monitored where they were going.

23 And so we have a risk analysis that by any
24 standard, if an eighth grader did a science project
25 like that, the teacher would give them probably a D or

1 an F. But yet you have the agency basing a decision of
2 huge magnitude -- again, we're not talking about a
3 small facility here, we're talking about a major
4 destination site. They're basing it on at least flawed
5 science. Even if I do agree there is some small health
6 risk with naturally occurring asbestos, I don't think
7 they have shown, based on the testimony from the
8 public, that they got an accurate risk assessment.

9 So at the least, I think, Commissioner Willard
10 said at some point in time there needs to be some
11 additional review or peer review or some additional
12 analysis by a third party that can look objectively at
13 the risk analysis, look at some of this other data,
14 look at some of the employee analysis and data from the
15 BLM employees, and see if all of this stuff makes
16 sense.

17 If at the end of the day there is some
18 legitimate health risk, then we're prepared to deal
19 with that. But I don't want to see an area closed,
20 functionally closed to OHV recreation based on at least
21 a flawed analysis.

22 And then finally, I think that's about it for
23 now. But I do think there is a need for some
24 additional third party review of this study. Thank
25 you.

1 AMY GRANAT: Hello, Commissioners, Amy Granat
2 with the California Off-Road Vehicle Association.

3 One comment in what Mr. Cooper talked about the
4 extension and said it would be too expensive for the
5 agency, I would like to remind the BLM that they are
6 here to serve the public and not the other way around.
7 And certainly when they took the \$10 million from the
8 collective people here, the OHV Division since 1980,
9 they're not offering to give any back. So I think they
10 can give us a little bit of latitude for that
11 \$10 million and give us an extension. It couldn't cost
12 that much.

13 There are a number of questions when Mr. Cooper
14 is talking that come to mind that on the outside it
15 does sound like it's a health risk, and you say why
16 would I want to expose myself to that. But a couple of
17 things he's forgotten is that there are four areas
18 which he mentioned that have the same type of rock.
19 What happened in the other three areas? Were those
20 areas closed to all activities? And the answer to that
21 is no. Continued OHV use between 2004 and 2009, were
22 any significant illnesses found, anything that happened
23 to anybody, again the answer is no.

24 There are new standards being developed by the
25 EPA for chrysotile asbestos, but this study was done

1 before those standards had taken into effect. They're
2 still evaluating it, but it is acknowledged, at least
3 with the experts that I've spoken to, that there will
4 be some changes and chrysotile will turn out to be much
5 less of a risk than has been used in this model. And
6 yet these new standards, they did not wait for them to
7 go into effect or wait for this to come out, and
8 therefore all of this is based on 1986 EPA models.
9 That's kind of a long time ago. We should have some
10 updated information on this.

11 If one in 10,000, as a model showed, if there
12 are one in 10,000 risk, I would hesitate to say that we
13 would see a lot of evidences or illnesses of cancer or
14 at least a cancer cluster, which we find in other
15 areas, not because of asbestos because of other
16 contaminants, and yet there are none. And when all of
17 these things you put them together, the only conclusion
18 that you can come to is it doesn't make sense. There
19 is no logic behind it. There is no evidence behind it.
20 Models are a great thing, as my colleagues have noted,
21 and Mr. Cooper noted himself, they're overestimated.
22 If there was risk, if there really were problems, we
23 would see some evidence for it, but there is no
24 evidence. And therefore I really question what kind of
25 risk exists in the area. Thank you.

1 FRED WILEY: Thank you. My name is Fred Wiley.
2 I'm with the Off-Road Business Association.

3 I have not been directly involved in the Clear
4 Creek issue mainly because the experts are more in this
5 area. I became involved this last week when I was
6 invited to attend the meeting for the economic impact
7 on the businesses within the area. So several of our
8 members asked me to attend the meeting and explain it
9 to them.

10 The one thing I noted through the meeting is
11 that there was no real analysis from the BLM as to what
12 that impact was. We were told that although they were
13 taking notes that day on clipboards up at the front of
14 the thing, that if we wanted that information entered
15 into the record, we had to make sure that it was
16 submitted in writing. So if it was an informational
17 gathering meeting, why was not the information that was
18 gathered in the meeting entered into the record? We
19 still have to furnish that by the March 5th date.

20 The other reason I'm here today is I have had
21 passed out to the Commission the letter that some of
22 the OHV community has sent to the BLM asking for an
23 extension. I would request that the Commission with
24 its force and power send a letter similarly asking for
25 an extension. They don't seem to pay attention to the

1 individuals, but maybe the Commission could help. And
2 I'm not sure if it's viable for the Division to send
3 letters because they have sent money. So if the Deputy
4 Director could review that with legal staff, I think
5 that would be appropriate, as well.

6 I want to be careful with asking for a lengthy
7 extension because one of the comments from the
8 businesses is that they're suffering now. They're
9 concerned about the time frame that's going to be taken
10 around this. We need to make sure that it's done
11 right, but we have to protect all of the entities that
12 are involved. Thank you.

13 BRUCE BRAZIL: Good afternoon, Bruce Brazil,
14 California Enduro Riders Association.

15 One of the first things I'd like to address is
16 the question by Commissioner van Velsor, and that's on
17 the liability. Within all of the possible
18 alternatives, except A, there is a requirement for
19 visitors to CCMA to sign a waiver of liability. Just
20 thought you'd be interested in hearing that one. So
21 apparently they do think there is some risk in any of
22 the activities there.

23 A lot of the information and conclusions as far
24 as the health risk are kind of vague because they have
25 no idea of who is visiting the CCMA. They have some

1 vehicle counts, and some of the early ones they even
2 claim those are faulty, but recently they said they got
3 some new high-tech vehicle counters for the last couple
4 of years, but those counters don't know how many people
5 are in the vehicle, they don't know the age of the
6 occupants in the vehicles, they don't know if that
7 person or vehicle has been there once in one year or
8 3,000 times in a year, well, actually, 30,000 because
9 that's the normal attendance, average attendance at the
10 CCMA. So they don't know. They don't have these
11 figures.

12 It's kind of interesting also what you can get
13 from the Freedom of Information Act. Apparently,
14 Mr. Cooper was able to review and make comments on the
15 EPA report before it was released to where he was able
16 to give some guidance. Some of what he suggested was
17 good stuff, you know, kind of clarifications; others
18 skewed the report a little bit.

19 As far as the seasonal exposure, he said not
20 really much difference in the results that the EPA got
21 due to dry time, moist time, and wet time. But further
22 studies into that, you'll find out that the soils
23 weren't really that much different as far as moisture
24 content between the dry and moist time, so a little
25 flaw in that.

1 COMMISSIONER SLAVIK: Could you explain that?

2 BRUCE BRAZIL: It's in the back end of the EPA
3 report where it shows soil moisture content, not only
4 did they monitor the air for particulates while they
5 were driving through there, they also took soil samples
6 along the way. And they're claiming that while they're
7 doing the air samples, the moisture, you know, some of
8 the samples during the moist time were dryer or as dry
9 as during the dry season.

10 Alternative C has the age restrictions in it.
11 Well, when the EPA was doing their driving around or
12 whoever it was that was doing it for them, for an adult
13 they had to sensor up lapel height or so. What is
14 supposed to simulate a child being mounted lower? But
15 nowhere in the report that I can find did they take
16 into consideration that a child doesn't take in as much
17 air as an adult, probably half as much depending on the
18 size of the child. Lung capacity is in relation to the
19 person's size, not their age.

20 And I see I've only got a couple of seconds. My
21 final thing when the grants come up -- hopefully they
22 don't even ask for any money. When the grants come up,
23 being that the state office has approved of the closure
24 and the report, I hope they don't get any money either.

25 There was one -- may I go over my time limit?

1 There was one portion also under the Freedom of
2 Information Act where one of the statements that
3 Mr. Cooper made, I believe was to one of the OSHA
4 organizations, was that in their testing, all the
5 tests, except for the one where an employee was on a
6 Sweco, came up safe as far as the asbestos testing.
7 Thank you.

8 NICK HARIS: I would say good afternoon, but I
9 have think it's good evening, Commissioners, Nick
10 Haris, American Motorcyclists Association.

11 I've heard a lot of good comments. I don't want
12 to repeat all of that. Basically, first thing I'll say
13 is I've been out to Clear Creek a few times, and when I
14 hear that's been intensively managed, I'm sure that
15 refers to culverts and trail maintenance and things
16 like that. I was stunned the first time I went out
17 there. There was a gate with no one there and a cork
18 board and a sign. I was like where is the guard shack,
19 where is the forest ranger kind of mentality. That's
20 what I expected. It was pretty wide open.

21 I just want to stress the importance of this
22 area, and Don Amador did a great job of talking about
23 it. You think about where people can go. I was at the
24 meeting on Monday, that economic meeting. I was
25 sitting on the panel, actually. There is just nowhere

1 like this. It had the longest running national AMA
2 Enduro until two years ago. If you're a Bay Area
3 rider, I guess you can go to Carnegie -- well,
4 hopefully, or Hollister. But for something like this,
5 for the type of event for an Enduro, it's a five- and
6 six-hour drive. You're going to end up riding with
7 Ed Waldheim if they close this place or they keep it
8 closed.

9 So I wanted to really truly request your putting
10 in a request as a Commission for an extension of
11 90 days. I'm very curious about the monies that have
12 been spent here and what promises were made over the
13 years. I know that there was some general language in
14 one of the grants indicating the agencies would
15 guarantee on some level a service to be provided for
16 the money spent. I would like to see that
17 investigated.

18 And I was kind of stunned. The economic meeting
19 was Monday, comments being due next Friday. It was a
20 very interesting meeting, and I thought there was a lot
21 of good comment. But it was pretty depressing. This
22 area is not highly populated anyway. You had a lot of
23 business owners, be it OHV, local restaurant, local
24 hotel talking about the impact it's had to their
25 business. I just really hope that all of that is

1 brought into this discussion. I thank you for your
2 concerns and interest in this issue.

3 MIKE WUBBELS: Hello, my name is Mike Wubbels.
4 I'm the executive director of Friends of Clear Creek
5 Management Area. I want to thank you for allowing me
6 to speak.

7 Pretty much everybody said everything right now.
8 I think one of the things I wanted to impress upon you
9 is when they talk about the decon facility, the road
10 coming in and the road going out are dirt, the same
11 dirt they're decontaminating with, yet we spent
12 \$2 million for this facility. They say it's dangerous.
13 They say we shouldn't be there. That's all I'm going
14 to say.

15 ED WALDHEIM: Mr. Chairman, Ed Waldheim, former
16 commissioner.

17 1984, how long we've been dealing with Clear
18 Creek, way back then, and I don't know what happened in
19 that Hollister Office, and it's no reflection him. He
20 wasn't around at that time, but there was this lazy go
21 attitude, you know, if you're here, fine; if you're not
22 here, fine. If we provide recreation, fine. If we
23 don't, fine. And we wrestled as commissioners for a
24 long time, do we give them money or don't we give them
25 money. Don, do you remember that; Pickett? I mean we

1 were trying to figure out how are we going to deal with
2 these people here, they don't really care about us.
3 Why we ever gave them a dime, to this day I don't
4 understand why we even gave them a dime to tell you the
5 truth. We didn't see their dedication to multiple use,
6 which is the BLM's mandate.

7 The Martin Ranch, we almost bought the Martin
8 Ranch right next to it, 640,000 acres. We almost
9 bought it. To this day I kind of blame myself for
10 voting to take it off the table. It's a beautiful
11 hunting area. It would have been fantastic to get some
12 money out of that place. We should have bought it.
13 It's one of those stupid things you make, and you
14 regret it in life later on.

15 Why they have not been looking for other areas
16 is beyond my comprehension. All these years they told
17 us it was not the bad asbestos, it wasn't a problem.
18 And all of a sudden now management decides, oh, there
19 is a problem, they're going to save the earth, they're
20 going to save the people. It doesn't make any sense
21 whatsoever. The closure of that place right now, it
22 makes absolutely no sense.

23 And all I can think of is the BLM for some
24 reason doesn't have the backbone to do what is right
25 for the OHV community. Some reason, that place, they

1 will not help us. If, in fact, they were dedicated to
2 the multiple-use issue, they should have found
3 replacement areas for these folks to dedicate
4 themselves and go ahead and enjoy themselves. God only
5 knows they took enough of our money. It just doesn't
6 make any sense.

7 So not providing the extension is capricious, if
8 anything. Deadlines, who cares about deadlines. They
9 serve the public. The public wants a deadline, give
10 them a bloody deadline so they have the time to resolve
11 the issues and come up with better solutions on it.
12 Why are we not looking in other areas? I have no
13 earthly idea. Why are they not coming to the Division
14 and saying, hey, I think this is a good place and maybe
15 we can buy those three, four little private properties
16 in there that they may want to sell, and then sell the
17 rest to Mr. Pickett for \$10 an acre? I have no idea.
18 I don't understand why from manager to manager -- God
19 only knows we've gone through a lot of managers, God
20 only knows we've gone through a lot of plans. Every
21 time they get this close to signing the record of
22 decision, oh, we've got a study come up with a new
23 plan. How many times have we gone through a plan?
24 Every Commission meeting they came up here, I'm not
25 going to say they lied to us, but they sure misled us

1 on the Commission on their intentions. Willfully or
2 unwillfully, I can't put my finger on that. And I'm
3 not going to blame him because he's new. He's just
4 accepting something.

5 So something does not look right in this whole
6 thing. We cannot leave a whole community out in the
7 cold where they now have to drive three, four hours to
8 go to recreate and go some other places. I don't know,
9 I've got 28 seconds left over. So how many hours did
10 you say to drive? Six hours to drive, my God, the fuel
11 and what they do to the resources, it's unbelievable.
12 Folks, they need to get the extension and BLM needs to
13 wake up and help us get some opportunities.

14 CHAIR WILLARD: Thank you. We need a short
15 break right now, maybe five minutes, then we will come
16 back and wrap this up.

17 (Break taken from 4:41 to 4:54 p.m.)

18 CHAIR WILLARD: Before we get into discussing
19 Clear Creek amongst the Commission, Deputy Director, do
20 you have any comments or questions.

21 DEPUTY DIR. GREENE: Thank you, Chairman.
22 Mr. Cooper, where might you be located? Mr. Ahrens
23 come on up.

24 Certainly the impacts, I will say, and I see
25 Mike Roostofer from Santa Clara County from Metcalf

1 here in the audience today. I don't think I need to
2 try and tell you the impacts that both Santa Clara
3 County Metcalf has had, as well as Hollister Hills as a
4 result of the closure of Clear Creek. Hollister
5 immediately increased the number of weekends it was
6 closed, sometimes as early as ten o'clock in the
7 morning. So we're talking about not only individuals
8 traveling down to Jawbone, Mr. Waldheim, but certainly
9 the impacts that it's having on our state and community
10 parks.

11 Rick, just a couple of questions because I'm not
12 particularly clear about it. The green area you
13 indicated on the maps was research natural area, who
14 manages that?

15 RICK COOPER: Well, the green area that I
16 indicated on the map that was on the display was the
17 boundary of the Clear Creek Management Area. On the
18 maps that the Commissioners and you have, let me look.

19 DEPUTY DIR. GREENE: Commissioner Silverberg
20 were talking about the research natural area.

21 RICK COOPER: Right. So the green area,
22 Commissioners and Daphne, that is the research natural
23 area that's on the map that you guys have.

24 DEPUTY DIR. GREENE: And so does BLM manage that
25 area?

1 RICK COOPER: Yes, we do.

2 DEPUTY DIR. GREENE: So I'm trying to remember
3 going way back, in terms of UC Davis was involved with
4 that? What was the area that UC Davis was so
5 intimately involved with?

6 RICK COOPER: UC Davis has been involved with
7 some restoration like experiments with strategies for
8 restoration of barrens in that area. There was some
9 grant funding that was done. We have worked with them
10 on developing those strategies in areas where erosion
11 is starting to get funneled down an old track and then
12 eroding some of those barrens, very loose soil, very
13 hard to rehabilitate.

14 DEPUTY DIR. GREENE: What's the endangered
15 flower, the plant?

16 RICK COOPER: San Benito evening primrose.

17 DEPUTY DIR. GREENE: So wasn't there a study
18 that UC Davis was doing out here?

19 RICK COOPER: I'm not sure. You mean a recent
20 study that's been involved?

21 DEPUTY DIR. GREENE: I thought for some reason
22 they were managing. I was just curious in terms of
23 that area and the impacts to that area, whether or not
24 that was going to be closed and some of that research
25 or is everybody then limited to the --

1 RICK COOPER: Under the current land use plan,
2 that area is closed to OHV use. There's a corridor
3 through it with the county road, but those areas are
4 fenced off for the most part.

5 DEPUTY DIR. GREENE: I was curious about what
6 happens to the researchers and what happens to the
7 collaborative process you have with them? Are they
8 only allowed to go in under your proposal for five
9 days?

10 RICK COOPER: We would have to set up some sort
11 of permit to make sure that they're staying under the
12 threshold, as well.

13 DEPUTY DIR. GREENE: Okay. And on that outside
14 green boundary line that you were talking about, I
15 understand you said in terms of this plan, we aren't
16 looking at considering moving out. I was trying to
17 understand if the area is closed and never moving out
18 was a possibility, what would preclude us or preclude
19 you from looking at -- clearly we saw from the Forest
20 Service earlier today that it's always in a constant
21 state of planning. Why wouldn't it be possible, Rick,
22 as you're looking at alternatives, to perhaps say that
23 an alternative as part of the whole planning process
24 would be to reevaluate that planning process and push
25 out a little more?

1 RICK COOPER: Push out beyond the CCMA boundary?

2 DEPUTY DIR. GREENE: Yes.

3 RICK COOPER: Well, we chose not to. It was

4 just a conscious decision to try to do the

5 environmental impact statement, do the analysis, keep

6 the focus of the health risk associated with Clear

7 Creek. We felt that was going to be enough of a

8 challenge to try to deal with. We kept it focussed on

9 the Clear Creek Management Area. If we need to look at

10 alternative areas, we're going to have to do amendments

11 on the Hollister RMP, as it stands now the 2007

12 Hollister RMP.

13 DEPUTY DIR. GREENE: Has there been any

14 indication that might be a possibility?

15 RICK COOPER: Amendments are always a

16 possibility. You can do them. And as I approached the

17 Division, there are a couple of areas that I would like

18 to look at in the future that we discussed.

19 DEPUTY DIR. GREENE: And so I guess I was just a

20 little disturbed when I heard you say that we can't

21 consider an extension based on funding?

22 RICK COOPER: Well, I guess it's -- I guess,

23 it's a -- it is a schedule that we have, that we've put

24 this on a schedule, and we're trying to meet those

25 timelines. If we were to extend, it is a cost.

1 And I guess we have to evaluate, you know, are
2 we going to get or obtain substantially more or better
3 comments between 90 days of opportunity to comment and
4 adding 180 days. After we go 180 days, then do we add
5 another 45 days because we're going to get a few more
6 better comments? So it's just we established and in
7 most -- even some of the more complex EISs that we do
8 do down in the desert, it's normally a 90-day review
9 period for an environmental impact statement, and
10 that's what we established here.

11 Yes, there is a cost. That's not necessarily
12 the overriding factor, but it is a cost.

13 DEPUTY DIR. GREENE: I guess I heard earlier
14 today when we were talking about the CDPA, the proposed
15 Feinstein bill, there is no funding right now with that
16 bill. The cost to BLM is going to be huge. I can't
17 help but think that this cost is not to the degree of
18 what that proposal is going to be. And I guess it's
19 just a little disheartening to hear everybody -- I
20 don't know whether or not it is the quality of the
21 comment or it's the fact that we're looking at what is
22 the harm right now and the area is closed. No harm is
23 being done, no risk is being done. I guess I always
24 come back to Commissioners, and then I'll turn it back
25 over to the Chair, if somebody were to tell me today

1 that my mother had cancer, I'm not just going to say
2 thank you and walk out of the doctor's office and go
3 prepare a coffin, I'm going to go get a second opinion.

4 That is the troubling thing for me. I
5 understand the regulatory agency and how that works,
6 but I also believe that there is a commitment that is
7 made, and that this area has tremendous recreational
8 value. And we've been talking today about recreational
9 value and conservation values and whether or not we're
10 talking about the gem collectors or the rock hounds or
11 whatever it may be, this area is so vitally important
12 to the community. The economic impacts to the
13 Hollister, Coalinga, and Fresno areas have been
14 dramatic. And it is something that we should consider.

15 It is disheartening to think that it can take so
16 long to get a project to be reviewed and then it can go
17 away so quickly. Thanks, Rick.

18 CHAIR WILLARD: Let's talk about the issues in
19 front of us and what, if any, action we might take. I
20 think there's two things for to us consider. First of
21 all, is the comment period, being March 5th, do we want
22 to consider writing a letter from the Commission to BLM
23 asking for an extension. And then I think the other
24 topic that we should probably talk about and perhaps
25 take action on is whether or not we should be prepared

1 to make comments to the draft EIS by March 5th because
2 we're not sure if we're going to get an extension. In
3 fact, BLM is now telling us there will be no extension,
4 so I think we need to consider both of those potential
5 actions.

6 Let's just take them one at a time, and I'll
7 start by suggesting that we should write the letter
8 asking for an extension of 90 days.

9 I'm just really, really surprised that there's
10 such adamant pushback on BLM's part on not giving
11 a 90-day extension. I've been on this Commission for
12 four years now, and I've always thought that BLM was a
13 very good close partner with the Division and our OHV
14 program and that we work well together. Clearly, the
15 program has funded BLM throughout the state to a tune
16 of tens of millions of dollars, and as I had said is
17 probably somewhere around \$9 million specifically on
18 Clear Creek.

19 So it's just beyond me why we cannot have at
20 least another 90-day extension so that Division can
21 continue their work in reviewing the plan and come up
22 with a well thought out set of comments. I'm assuming
23 that's what you'd like to get is a really good deep
24 comment pool to draw from. And I think that's our
25 intent, and that's what Division wants to do. That's

1 what the Commission would like to see done. That's
2 what the community wants. Over and over again we've
3 heard about so many different clubs, organizations,
4 individuals, I'm even hearing that some of the local
5 politicians are now petitioning BLM for an extension.
6 I would say that the Commission needs to throw its
7 weight into this and send a letter asking for an
8 extension.

9 Mr. Cooper, you're standing. You have a
10 comment? Go right ahead.

11 RICK COOPER: Well, just on behalf of, you know,
12 Acting State Director Jim Abbott, he certainly imparted
13 to me that if the Division, you know, at any time
14 during this process that we're going through from now
15 until such time as we issue a record of decision, we
16 will entertain information from the Commission and from
17 the Division, you know, just as we do from --
18 oftentimes we do from the local counties' governments.
19 I mean we routinely do that. So I mean that's
20 something that I'm sure Acting Director Abbott would
21 have no problem whatsoever. I mean I would make that
22 assertion there, that if you need additional comments,
23 anything that the Commission brings to us, you know, if
24 it is compelling information that we think we need to
25 consider as far as where we're going with our

1 management on the public lands in Clear Creek, we can
2 entertain that. That's a given.

3 DEPUTY DIR. GREENE: I appreciate that, Rick,
4 and I know you extended that. I think for me at least,
5 as we are representatives of the public and that we're
6 here to serve the public, that's my concern. Routinely
7 one of the things that we've said with the grants
8 program two years ago was that we always give
9 extensions to BLM and Forest Service and the counties,
10 recognizing they can't always get to the work and spend
11 the money they have. But we also a number of years
12 ago, two years ago said that we were going to start
13 reducing those extensions because you needed to think
14 about our program. But in this particular instance, I
15 guess I would hope, Rick and Mike both, that BLM would
16 want to do it on behalf of the public.

17 CHAIR WILLARD: Commissioners, any other
18 comments?

19 COMMISSIONER SLAVIK: Yes, in reference to what
20 Deputy Director Greene just said, when the entities ask
21 for extensions from you folks, those are people that
22 are getting paid to do their job.

23 In this case we're talking about people that
24 have jobs and maybe they can extract a couple of hours
25 in the evening to try and read these documents, and

1 then try and write a succinct letter to address the
2 issues. And I know it's a huge task, having done a few
3 of these myself. I just hope we defer to the fact that
4 these are folks that have already gone through the
5 Christmas season, that took some time, we all know
6 that.

7 And, once again, I cannot see how there's any
8 real issue with the agency in granting an extension
9 when, in fact, it's just an arbitrary decision on your
10 part. I know you have timelines, but the timelines are
11 meant to address the issues, and the people involved
12 are the issue, really. So I hope we just are able to
13 follow through.

14 I would propose a motion to the Chair to write a
15 letter in concert with the Division for comments to the
16 DEIS before the March 5th deadline, so that's a motion.

17 COMMISSIONER SILVERBERG: Second.

18 CHAIR WILLARD: Okay. So there's a motion to
19 discuss drafting a letter that would be our comments on
20 the draft EIS.

21 Any other comments or discussion on that?

22 COMMISSIONER VAN VELSOR: By the March 5th
23 deadline? Are you folks capable of doing that?

24 DEPUTY DIR. GREENE: As I said earlier, I think
25 the difficulty is -- Commissioner Slavik, I appreciate

1 it that we get paid, but as you've seen today, we have
2 a very complex Feinstein bill, we have a very complex
3 situation at Carnegie, we have a very complex situation
4 Oceano, these all take time.

5 COMMISSIONER SLAVIK: I understand.

6 DEPUTY DIR. GREENE: And so I think that
7 certainly it's up to the Commission. I'm hearing two
8 different approaches. I'm just not sure I'm clear on
9 which approach that you're taking, either an extension
10 or getting comments in.

11 CHAIR WILLARD: If we could be assured we'd get
12 an extension, obviously that's what we're going to get.
13 I think the thought is to cover ourselves in the event
14 that there is no extension.

15 COMMISSIONER VAN VELSOR: Didn't Mr. Cooper say
16 that you would accept comments from the Division any
17 time, even beyond the March 5th deadline?

18 RICK COOPER: Yes, in terms of accepting
19 comments from Commission, from the Division, if they
20 come forward with significant information that we need
21 to entertain on this decision process, we will
22 entertain it.

23 COMMISSIONER VAN VELSOR: At any time?

24 RICK COOPER: At any time.

25 COMMISSIONER SLAVIK: Would it carry the same

1 weight as the public?

2 RICK COOPER: Yes.

3 CHAIR WILLARD: Okay. That's good.

4 Move to withdraw or we can vote on it? It's up
5 to you.

6 COMMISSIONER SLAVIK: I don't want to burden
7 Division with everything they've got on their plate.

8 CHAIR WILLARD: Probably withdraw.

9 COMMISSIONER SLAVIK: I'll formally withdraw
10 that motion.

11 CHAIR WILLARD: Okay.

12 COMMISSIONER LUEDER: Yes, I think it's still
13 important that we authorize the Chair to submit
14 comments, regardless of what the date is, because
15 otherwise we don't have authorization for that.

16 Secondly, I think we need a motion to formally
17 request an extension not just for the Commission but
18 for the public because I think that's the whole point.

19 So I would like to make a motion that we request
20 a 90-day extension.

21 COMMISSIONER SILVERBERG: Second.

22 CHAIR WILLARD: Great. So let's have discussion
23 on a letter that the Chair would draft which would
24 request a 90-day extension. Commissioners, have any
25 other comments on that?

1 COMMISSIONER SILVERBERG: I think it's that
2 simple, just request a 90-day extension for public
3 comment.

4 And then in regard to what Eric mentioned, the
5 second letter would be the Commission's comments on the
6 EIS, which I think the biggest thing we talked about
7 here today was simply -- what was it, Rick,
8 Alternative D, outlining other areas to recreate in
9 within the BLM -- I think that's a great alternative.

10 CHAIR WILLARD: Let's take them one at a time.
11 So we're done talking about the extension. I'm going
12 to call for a vote.

13 Those in favor of the Chair writing a letter to
14 request BLM extend the DEIS comment period an
15 additional 90 days, all those in favor?

16 (Commissioners simultaneously voted.)

17 CHAIR WILLARD: Okay. So that motion is passed.

18 So as far as another motion that would direct
19 the Chair at some point in the future to present
20 comments to BLM on the draft EIS. So is that another
21 motion we would like to make?

22 COMMISSIONER SLAVIK: I think we should hold off
23 on it.

24 CHAIR WILLARD: We need to talk about it.

25 COMMISSIONER LUEDER: All right. I'll make a

1 motion that the Chair, on behalf of the Commission,
2 submit comments at a future date on the DEIS along with
3 Division.

4 CHAIR WILLARD: Is there a second on that?

5 COMMISSIONER SILVERBERG: Second.

6 CHAIR WILLARD: Discussion?

7 COMMISSIONER SLAVIK: Yes, I guess I was trying
8 to figure out the way not to put the burden on the
9 Division. And is there a way we can do this at the
10 Commission level with the subcommittee, come up with
11 the wording in a letter that I would hope all of us
12 could get involved in, but I don't know with
13 Bagley-Keene if we can do that. That's another one of
14 our hurdles.

15 CHAIR WILLARD: That's a good idea. We could
16 have a subcommittee of Commissioner Slavik and one
17 other person to read the 700 pages and come up with
18 comments. I'm sure staff will help out on that.

19 DEPUTY DIR. GREENE: Certainly. We had
20 submitted comments previously to BLM, to Rick.
21 Certainly we would be doing so again. Be happy to work
22 with the Commission.

23 COMMISSIONER VAN VELSOR: Would the comments
24 that were prepared be then available for the Commission
25 to vote on? And could we have the opportunity to see

1 the comments before we voted on them?

2 CHAIR WILLARD: No, because we don't know the
3 timing of when they would go out. I think that's the
4 purpose of the motion is to empower the Chair to work
5 with Division to come up with a set of comments that
6 the Chair and the Division think is appropriate for the
7 Commission to make.

8 COMMISSIONER VAN VELSOR: Rick said there is
9 extra time.

10 CHAIR WILLARD: We don't know when things are
11 going to be coming to a head.

12 DEPUTY DIR. GREENE: Rick, I think the record of
13 decision is issued when, January? I'm just trying to
14 figure out whether or not if the Commission meeting in
15 April, whether or not that would be possible
16 depending --

17 RICK COOPER: April of what, 2010?

18 DEPUTY DIR. GREENE: April 2010.

19 RICK COOPER: Well, the schedule will be
20 incorporating comments from March 5th on through to
21 develop the final on September of this year. So
22 April would be adequate.

23 CHAIR WILLARD: So if we had comments in at the
24 end of April, then that would be fine?

25 RICK COOPER: Yes.

1 DEPUTY DIR. GREENE: Certainly hoping, desiring
2 that there is that 90-day extension, then that would be
3 within that 90-day extension for public comment.

4 RICK COOPER: Yes, it would be, yes.

5 CHAIR WILLARD: Maybe that works. Maybe we
6 amend the motion to have a subcommittee work with
7 Division on crafting comments that might be available
8 for the Commission to deliberate at the April meeting.
9 Does that make sense?

10 COMMISSIONER LUEDER: Do you want the amendment?

11 CHAIR WILLARD: You're the maker. You can
12 amend.

13 COMMISSIONER LUEDER: I will amend the motion to
14 reflect what the Chair just said.

15 I amend the motion to have the Chair set up a
16 subcommittee to work on comments along with Division
17 and bring it back to the Commission at the
18 April meeting.

19 DEPUTY DIR. GREENE: I believe there was already
20 a subcommittee, and I believe you were on it -- or at
21 least I remember that you and Commissioner Silverberg
22 met with Mr. Cooper at Division.

23 CHAIR WILLARD: Perfect. We already have a
24 subcommittee. Then the subcommittee should be in
25 charge of continuing its fine work on drafting the

1 comments.

2 So the motion is hereby amended that the
3 subcommittee will continue to work with Division to
4 come up with a set of comments that they will bring
5 back as a recommendation to the Commission at our
6 April meeting to deliberate on, then presenting it to
7 BLM.

8 Second?

9 COMMISSIONER McMILLIN: Second.

10 CHAIR WILLARD: Further discussion?

11 COMMISSIONER FRANKLIN: Mr. Cooper, quick
12 question for you. You know we've talked a lot about
13 the public requesting additional time for comment
14 period, and I understand your position, you've got a
15 boss, your boss has got a boss, and you've got
16 schedules, and those have to be kept. I understand
17 that completely, trust me. I understand you're a
18 little bit hesitant to grant the 90-day extension.

19 Is there a number of days that you would be more
20 comfortable with? I understood your point, you don't
21 want to do 90 now, and then 90 later, another 45, and
22 it drags the whole thing out.

23 RICK COOPER: No, there's not a particular
24 number that, you know, beyond the 90 days that we do
25 have as far as an extension goes.

1 I think the Commission drafting a letter and
2 directing that letter to the Acting State Director of
3 California to request this immediately, that's what's
4 going to have the most immediate effect.

5 COMMISSIONER FRANKLIN: Just trying to find an
6 easier way to do this. We've got the public here that
7 has a vested interest in this. They've got a lot of
8 comments. They want to get them heard. March 5th is
9 next week. This was announced early December-ish.
10 There was a holiday. It was also announced on the same
11 day that there was some national forests and their
12 rules came out. Again, the public has a lot of
13 interest in this, and they're not looking at just your
14 report, they've got other national forests with similar
15 issues.

16 That's truly why they're looking for more time,
17 not because they're procrastinating, not because
18 they're trying to drum up more or better arguments.
19 They just want a fair and equal opportunity to provide
20 their input. That's why we're here, and that's what
21 we're doing. So if you're not comfortable with 90, 45,
22 is it 10? It's nothing it sounds like unless forced
23 to.

24 RICK COOPER: At this time, yes. And I would
25 strongly suggest just the way you characterized it,

1 that's a perfect way to characterize it to the state.
2 The state director is balancing a lot on his plate, as
3 well. So he's got a lot of plans that we're dealing
4 with throughout the state, so I would suggest that you
5 get them to him soon.

6 CHAIR WILLARD: I'm going to call for the vote.
7 All those in favor?

8 (Commissioners simultaneously voted.)

9 CHAIR WILLARD: It passes.

10 I think that's it, Commissioners. Any final
11 comments from anyone? Thank you all for coming. See
12 you in April. Motion to adjourn.

13 COMMISSIONER McMILLIN: So moved.

14 COMMISSIONER SLAVIK: Second.

15 CHAIR WILLARD: All those in favor?

16 (Commissioners simultaneously voted.)

17 CHAIR WILLARD: Meeting is adjourned.

18 (Meeting adjourned at 5:21 p.m.)

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